NOTIONS OF LIBERTY AND FREEDOM PRESENTED BY THE POLISH DELEGATION AT THE COUNCIL OF CONSTANCE

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TABLE OF CONTENTS

PAGE

ACKNOWLEDGEMENTS v

INTRODUCTION vi

CHAPTER

I. BACKGROUNDS TO THE COUNCIL OF CONSTANCE 1
  - A. The Western Schism and the Counciliar Theory 1
  - B. Arrival of the Council Delegates 9
  - C. Organization of the Council 18
  - D. Freedom at the Council and the Election of Martin V. 22

II. NATIONAL AND DOCTRINAL BACKGROUNDS TO POLAND'S PARTICIPATION IN THE COUNCIL OF CONSTANCE 26
  - A. Poland, The Empire and The Papacy 27
  - B. Rights of Infidels and Infidel Nations 38

III. THE POLISH DEFENSE OF EQUALITY OF INFIDEL RIGHT AND RIGHT OF POSSESSION 71
  - A. Equality of Rights between Christian and Infidels 76
  - B. The Right of Infidels to Possess Material Goods 86

IV. THE POLISH DEFENSE OF INFIDEL RIGHT TO TERRITORIAL SECURITY 97

CHAPTER PAGE

V. POLISH OPPOSITION TO FORCED CONVERSIONS TO CHRISTIANITY 114

VI. THE FALKENBERG AFFAIR 137

A. The Polish Response to Satira 143

B. The Condemnation of Satira 153

CONCLUSION 163

BIBLIOGRAPHY 167

VITA 173

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INTRODUCTION

The Council of Constance, which began in 1414 and lasted for some four years, was one of the largest church councils of the Middle Ages. It attracted to Constance ecclesiastics of all levels, as well as university doctors and masters from all parts of Europe. Even delegates from the Eastern Orthodox Church came to Constance. In a word, the Council was ecumenical.

Primarily, the Council was called to resolve the division in the Church known as the Western Schism which had divided the western-Church for several decades. However, the Council appeared to be, as well, an international body which would work out political problems troubling Europe. Thus, although essentially interested in the Schism and various religious problems such as heresy, as represented by the Hussite affair, and ecclesiastical discipline, the Council was taken up with problems which were of a non-religious nature, problems which today we would call secular. This mixture of religious and non-religious issues which characterized Constance was not peculiar, for when dealing with the medieval councils, one repeatedly finds them involved with theological, philosophical and political matters. The Council of Constance was, therefore, no exception.

Like other parts of Christendom, Poland was represented at the conference by both ecclesiastics and laymen. These delegates were destined to play a significant role at the Council. Although Poland was Christianized in the tenth century, she had contributed little to former councils. Having achieved, by the fifteenth century, a high degree of political stability, as represented by the Polish-Lithuanian union; and a high intellectual level, as represented by the University of Cracow, she would, for the first time, make contributions to Christendom and western civilization that were of a philosophical, theological and political nature.

The immediate cause of Poland's active participation at Constance was the political problem she faced, which was closely connected with religious issues. Essentially, the problem involved the eastward expansion of the Empire, and the forced conversion of infidels to Christianity.

The Teutonic Knights, supported by imperial and papal bulls and grants, executed this program of expansion. The Empire, motivated by a desire to extend itself and Christianity, saw itself as co-extensive with Christendom. In practice this meant that the advance of Christianity and the cause of religion were used as excuses for military conquest. And further, those people conquered by the Empire and forced to accept Christianity, simply lost political independence.

The cruelty of war, the murder of pagans who resisted, and the confiscation of pagan lands were rationalized by the assumption that with the coming of Christ, all power, jurisdiction and sovereignty was in the hands of Christians, and that non-Christians had no rights. Allowing eagerness for territorial expansion to overcome sensitivity to the spirit and tenets of Christianity, the advocates of such policies forgot that Christianity was a religion of love, that man's will was inviolable, and that the traditions of the Church forbade such policies of evangelization.

It was to these errors of forced conversion and denial of political independence that the Poles addressed themselves at Constance. Threatened by the political expansion of the Empire, and aware of the injustices committed in the name of Christianity, the Poles protested, drawing upon their own traditions of liberty and freedom. The views voiced by the Poles might be formulated as follows: First, the world community of states, and monarchies is basically not of a religious character, for it comprises peoples of different faiths and customs enjoying equal sovereign rights. Second, because of the inviolability of the human conscience, and the dignity of the human person, it is immoral and illegal to force upon anyone, at any time, for any reason a faith which, in conscience, he does not freely wish to accept. Third, the sovereignty and jurisdiction of a state may never be violated except under the circumstances of self defense, violation of one's own right, and under the conditions of a just war. Under no circumstances may the possessions of non-Christians be confiscated, nor the jurisdiction or sovereignty of non-Christian states be violated simply becausethe possession, jurisdiction or sovereignty is exercised by non-Christians. Such action would be a breech of natural law which guarantees rights of possession and jurisdiction to all alike, whether they be Christian or non-Christian. Finally, the advance of the Christian faith may never be used as an excuse for the invasion of another nation whose sovereignty is guaranteed by natural law. Such action is merely the excuse for theft, violence, greed and destruction. All such conquests made under these principles are unjust and all material goods confiscated must be returned.

While the Polish difficulty with the Empire and the Teutonic Order was a matter of local concern, the Poles saw the problem in wider perspectives and raised their arguments to the philosophical and theological level. By this approach, they acquired a greater audience and aroused greater interest among the Council Fathers.

By their presentations, the Poles penetrated deeply into the consciences of the Council delegates. They condemned the sword as a lever of progress and a means for the development of human society. Accustomed to wars and feudal quarrels, the Fathers now heard words of love and justice from a nation known as an ally of the savage Lithuanians. These were words which instructed them in forgotten principles of human respect and dignity, and of principles upon which any society should be built.

CHAPTER I

BACKGROUNDS TO THE COUNCIL OF CONSTANCE

A. The Western Schism and the Conciliar Theory

With the exception of the Fourth Lateran Council in 1215, the Council of Constance was the most memorable gathering of Latin clergy in the history of the medieval Church. In an immediate sense, it was inspired by the need to heal the division in the Church known as the Great Schism, which occurred shortly after the death of Gregory XI, March 19, 1378 upon his return to Rome from Avignon. On April 7, 1378, the cardinals assembled in conclave to elect a new pope. Intimidated by a hostile crowd of Romans who surrounded the Vatican, shouting that a Roman or at least an Italian be elected to the papacy, the cardinals chose Bartolomeo Prignano, the archbishop of Bari, who chose the name, Urban VI.[1]

The new pope was a man of good character and austerity, who energetically undertook to bring about needed reform in the Church. His zeal and energy, however, were often severe, so that he soon fostered animosity and resentment among the cardinals. One day, when the pope in plenary consistory complained of having too many Frenchmen in the Sacred College, and expressed his intention of forming an Italian majority, the French Cardinal, Robert of Geneva abruptly left the hall. His action signaled the beginning of the Schism.[2] Soon the French cardinals, one after another, "for reasons of health," began to leave Rome.[3] Not long after, they met by previous agreement at Anagni. Claiming that the election of Urban VI had taken place under pressure, they announced on August 9, 1378, that it was invalid, and that the Holy See was vacant. Two days later, this group chose Cardinal Robert of Geneva, who became Clement VII. The Great Schism had begun, an incident which resulted in extensive doubt throughout the western Christian world, dividing it in two. The Schism continued after the death of Clement VII with the election of Benedict XIII.[4]

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[1] Noel Valois, La France et le grand schisme d'occident (Paris, 1919), p. 115.

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[2] Heinrich Finke, Acta Concilii Constantiensis (Munster, 1896), Vol. I, p. 88.

[3] Fernana Mourret and Newton Thompson, A History of the Catholic Church (St. Louis, 1955), Vol. II, p. 118.

[4] Etienne Delareulle, L'Eglise au temps du Grand Schisme et de la crise conciliare, 1378-1449 (Paris, 1962), Vol. II, p. 246.

There were proposals to settle the dispute less than two years after the election of Clement VII. Most of these aimed at solving the Schism through a general council. In 1380, for example, Henry of Langenstein, vice-chancellor of the University of Paris, published his Epistola Pacis which proposed such a solution. His theories were drawn from ideas put forth earlier in the century by such medieval political philosophers as John of Paris, Gielielmus Durandus the Younger, Marsilius of Padua and William of Occam. A year later, he published his Epistola Concilii Pacis, which called for a general council not only to end the Schism, but to reform and purify the Church. At the same time, Conrad of Gelnhausen, a professor at the University of Paris, composed his Epistola Concordiae, which made similar suggestions.[5] John Quidort of Paris advanced the notion that a pope who becomes a tyrant may be deposed by a general council, "because greater virtue lies in the college than in the head."[6] The foremost French theologian of the age, Peter D'Ailly, repeated an old canon law maxim when he recalled that a pope may err even to heresy, and that the Church was built on Christ, not on the pope. He taught the superiority of concils to popes, and urged prelates and doctors to join together in such a council.[7] D'Ailly's successor at the University of Paris, John Gerson, pleaded that simple priests and suitable laymen be summoned to resulve the Schism.[8] Thus churchmen and secular scholars were taking the initiative themselves, and supported a complex of ideas which has been called the "conciliar theory."

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[5] Paul E. Sigmunt, Nicholas of Cusa and Medieval Political Thought (Cambridge, 1963), p. 13.

[6] Louise Loomis, The Council of Constance (New York, 1961), p. 7.

During these difficulties, Poland adhered to the popes at Rome, that is, the Urbanists, the Polish Government rendering obedience to Urban VI, and his successor Boniface IX. These popes feared that Poland might turn to Benedict XIII, and made concessions to Ladislas II, Jagiello, King of Poland.[9] In 1397, for example, Boniface IX authorized the establishment of a faculty of theology at the University of Cracow.[10] In 1398, Ladislas II declared Boniface IX, guardian and protector of his newly born child, which he named Elizabeth Bonifacia.[11] It was Boniface IX, as well, who urged that the University of Cracow be re-organized and strengthened, and even contributed funds for its support.[12]

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[7] Ibid., p. 9.

[8] But now dearest brothers, that the Divine Word be made known, that the truth prevail and unity be restored, I would wish that the simple ones of the Church of Christ, laymen and priests be summoned to cleanse the Church...of which Church St. Athanasius said that it be One, Holy, Catholic and Apostolic. For if the Church be Catholic and Apostolic it, of necessity, must be One as well. If this be not so, I ask, how can it be otherwise? Herman von der Hardt, Magnum Oecumenicum Constantiense Concilium (Berlin, 1742), Vol. I, p. 69.

[9] Jan Długosz, Historiae Polonicae, Libri XII (Francofurti, 1709), Vol. II, Bk. XI, p. 501.

Innocent VII in 1404 and Gregory XII in 1406 succeeded Boniface IX. It was not until the papacy of Gregory XII that Poland began to deviate from her former papal policy.[13] Since Gregory XII and Benedict XIII were determined to maintain their positions, France encouraged a neutral attitude toward both popes. In Livorno in 1408, cardinals of the opposing factions declared they would convoke a council to achieve unity in the Church. By taking this stand, the cardinals followed the conciliar theory, and tood steps to bring it into practice, by calling the Council of Pisa.

At Pisa on June 16, 1409, 22 cardinals, over 180 bishops or their representatives, 87 abbots and their delegates,

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[10] Kazimierz Morawski, *Histoire de L'Université de Cracovie, Moyen Age et Renaissance*, trans. from the Polish by P. Rongier (Paris, 1905), Vol. I, p. 125.

[11] *Ibid*., p. 126.

[12] *Ibid*., p. 128.

[13] J.E. Darras, *Histoire de L'Eglise* (Paris, 1883), Vol. XIX, p. 382.

41 priors and superiors of religious orders assembled. Because the existing popes proved unyielding, or were unsatisfactory to the Sacred College, the prelates elected a third pope, Alexander V. The Council Fathers then departed, resolving to call another council within three years to pursue the work of reform.[14]

The Poles had sent Peter Wysz, the bishop of Poznań, and a doctor of canon law to the Council of Pisa. Of him the great Polish chronicler, Jan Długosz said, "During the entire council, he worked for the glory of God and his country to destroy heresy."[15] Elias of Wawelnica represented the University of Cracow at this same council.[16]

With the election of Alexander V, Poland abandoned Gregory XII, and supported the Pisan Pope, which seemed to indicate the great desire of the Poles for accord and unity in the Church. On May 17, 1410, Balthazar Cossa was elected successor to Alexander V, becoming John XXIII. A large part of Europe recognized him as the legitimate pope, but Spain and sections of Italy and Germany continued to support Gregory XII or Benedict XIII.[17]

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[14] J. C. Hefele and Leclercq, Histoire des Concils (Paris, 1907), Vol. VII, p. 75.

[15] Długosz, Historiae Polonicae, Vol. II, Bk. X, p. 475.

[16] Morawski, L'Université de Cracovie, Vol. I, p. 126.

[17] Jacques Lefant, Histoire du Concile de Constance (Amsterdam, 1727), Bk. I, p. 8.

Relations between John XXIII and Poland were good. On July 21, 1410, for example, he praised the Poles for their staunch faith and their university at Cracow.[18]

The Council of Pisa strengthened the desire for ecclesiastical unity, the hope turned toward the Emperor, Sigismund of Luxemburg, to convoke a council. Convinced of his authority, Sigismund was sympathetic to such an idea.[19] For his part, John XXIII felt the pressure of Christendom, and wrote numerous letters and messages to the emperor hinting that a council be held. To settle the matter, he sent to Sigismund Cardinals Challant and Zabarella, accompanied by the scholar Manuel Chrysolaros.[20] John was not explicit concerning the time or place of the council, and Sigismund, feeling that such an assembly should be summoned by the papacy, urged him to cme to a final decision so that he, in turn, might make definite plans.[21] Fearing that through a council such as this, he might lose his position, John continued his delays, and it was without his express consent that Sigismund announced on October 30, 1413, that a general council would be held at Constance beginning November 1, of the following year.[22] The emperor wrote special letters of announcement to France, England, Poland, Bohemia and Hungary and guaranteed, through a decree prepared by the archbishop of Kolocsa, Hungary, the security of the pope, John XXIII, and delegates to the Council. He proclaimed that all would be received with honor and ceremony.[23] Sigismund also invited Gregory XII and Benedict XIII to come. Two months later, on December 9, 1413, John XXIII at Lodi pronounced the Bull of Convocation for the Council of Constance and recommended that prelates and princes meet there on November 1, 1414.[24]

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[18] Morawski, *L'Universitè de Cracovie*, Vol. I, p. 128.

[19] Hardt, *Constantiense Concilium*, Vol. II, p. 33.

[20] Helfle and Leclercq, *Histoire des Concils*, Vol. VII, p. 120.

[21] Lenfent, *Histoire de Concile de Constance*, Bk. I, p. 32.

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[22] Oddrico Rinaldus, Annales Ecclesiastici (Cononiae, 1693), ad annum 1413, Vol. VII, no. 6.

[23] Wherefore we exhort you one and all in the Lord, those of you who should come to the Council, to lay aside every fear and make your way to the place determined, at the time appointed. We also, with God's help, will be there and do all in our power to keep each and every person at the Council in safety and liberty, whether on the road or during his stay, or on his return and to provide that our lord, the pope, the cardinals and his curia, with all the prelates and clergy at the Council, may enjoy full ecclesiastical immunity and our lord, pope, exercise freely there his whole apostolic authority, jurisdiction and power. Lidewise, that the cardinals, prelates and princes and every other person at the Council, ecclesiastical or secular may speak and act freely and do whatever seems to him expedient. Loomis, Council of Constance, p. 70-71.

[24] Valois, La France et le grand schisme d'occident, Vol. IV, p. 23.

B. Arrival of the Council Delegates

Delegates began to arrive after long and extensive preparations. This gathering of prelates and scholars from all parts of Europe was committed to the task of reforming the Church, "in head and members." It thought of itself also as a kind of international peace conference, which might solve problems not directly toughing upon the issue of the papacy, such as heresy, and local political difficulties.

Among the first to come to Constance was Pope John XXIII. John had ambivalent feelings about going to Constance. He feared that having gone there, he would leave, not as pope, but as a private person; at the same time, he hoped that the assembly over which he would preside, might recognize him without dispute, to the exclusion of his two competitors.[25] John arrived at Constance on October 28, 1414, with nine cardinals, several archbishops, bishops, prelates and members of his court, and was magnificently received there. His first official act was to confirm the opening of the Council for the first of November.[26] On that day, he celebrated mass, and read the Decree of Convocation.[27]

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[25] Hefele, Leclercq, Histoire des Concils, Vol. VII, p. 325.

The absence of the emperor and many of the delegates delayed the work of the Council, but its size increased steadily. In November the official French delegation arrived, headed by Peter D'Ailly, and included the famous John Gerson, and Cardinal Mauroux.[28] Envoys of Albert V of Austria,[29] deputies from England, Hungary, Bohemia and Austria also came to Constance during November.[30] It was not until December 24, 1414, that Emperor Sigismund arrived, accompanied by his wife, Empress Barbara.[31] The emperor immediately involved himself with the proceedings of the Council. In January, Danish and German representatives appeared at Constance as well as representatives of the Greek Church.[32] In February, there came more deputies from Hungary and Austria.[33]

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[26] Hardt, Constantiense Concilium, Vol. IV, p. 9.

[27] The Council of Constance, legitimately assembled in the Holy Spirit, forming an ecumenical council and representing the Church Militant, holds its power from God. All are bound to obey it in what concerns the extermination of schism and reformation of the Church in head and members. Rinaldus, Annales, ad annum 1414, Vol. VIII, no. 7.

[28] Finke, Acta, Vol. II, p. 187.

[29] Hardt, Constantiense Concilium, Vol. IV, p. 21.

[30] Ibid., p. 43.

The first of the Polish delegates arrived at Constance during the month of January, 1415. Leading this delegation was Nicholas Trąba, archbishop of Gniezno, highest dignitary of the Polish hierarchy. In his Historiae Polonicae, Jan Długosz describes Archbishop Trąba as, "a man, who by his person and exquisite manner, was well suited to had such a delegation."[34] Trąba, born of aristocratic parents, was a long and proven friend of King Ladislas II, but other than this, nothing is known of his background. His forceful and scholarly defense of liberty at the Council proceedings indicates that he had been well educated. His arguments contained reasonings and thoughts from the Fathers of the Church, and pagan and Christian philosophers. Generally, his remarks reflected the transitional theological and philosophical thought and spirit of the times.[35]

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[32] Ibid., p. 117.

[33] Ibid., p. 118.

[34] Długosz, Historiae Polonicae, Vol. II, Bk. XI, p. 178.

[35] Morawski, L'Université de Cracovie, Vol. I, p. 132.

The archbishop carried with him a letter from the King of Poland, setting forth the mission of the delegation, and Poland's hopes for the Council. The letter read in part:

> To the end of peace and liberty do we direct our legates, charging them to work for the good of the whole Church, for the end of the Schism and an end to the many, long turbulances which have befallen us. Then may we know the fulness and goodness of peace and tranquility, for ourselves and the entire Church, achieved through the Council, and the efforts of the ever august Sigismund, most serene Lord of the Romans, and our dearest brother.[36]

More specifically, the Polish mission at the Council was to defend Polish and infidel rights against violations committed by the Empire and the Teutonic Knights, and, "to show that neither for the propagation of the faith, nor any other reason, may the land of another be invaded."[37] These motives reflected the purpose of the Council, as such, which was called to iron out difficulties in Christendom.

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[36] Gian Domenico Mansi, Sacrorum Conciliorum nova et amplissima collectio (Vienna, 1960), Vol. XXVIII, p. 224.

[37] Hardt, Constantiense Concilium, Vol. II, p. 349.

Accompanying Archibishop Trąba was Jacob Kurdwanowski, Bishop of Płock, a neighbor of the Teutonic Knights, and an authority on the difficulties the Poles were experiencing with that Order. He was a man of political affairs, and well educated, as Jan Długosz says, "*rarae litteraturae*." [38] Kurdwanowski had studied at Bologna, and later attended the Council of Pisa in 1409.[39] In the same entourage were Andrew of Kokorzyn, and Prince John Opolski. Andrew, a doctor of theology, became rector of the University of Cracow in 1408, and was one of the leading theologians of his day.[40] John Opolski, called the Asparsor, or hyssop bearer, was an ecclesiastic from Cracow. He had studied law in Bologna and was chosen to represnet Poland because of his legal training.[41] The last of the ecclesiastics accompanying Trąba and the most significant and scholarly of the entire Polish delegation were Paweł Włodkowic and Andrew Laskarz. It fell to them chiefly, to present the Polish views at the Council, and defend the interests of their king and country. Their role was difficult since political and religious questions were mixed and local antagonisms were rampant.

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[38] Długosz, *Historiae Polonicae*, Vol. II, Bk. XI, p. 180.

[39] Lenfent, *Histoire du Concile de Constance*, Bk. II, p. 120.

[40] Długosz, *Historiae Polonicae*, Vol. II, Bk. XI, p. 205.

[41] *Ibid*., p. 206.

Paweł Włodkowic was born c. 1370, of noble family in Dołęga in the Province of Mazovia, the District of Dobrzyń, Diocese of Płock.[42] Although nothing is known of his earlier education, he received what today would be considered secondary training in the Cathedral School at Płock.[43] Later he studied at Prague and Padua, and returning to Poland in 1411, became warden of the Cathedral at Cracow, and rector of the University (1414-1415)where he also taught canon law.[44] While at the University of Padua, Włodkowic together with Andrew Laskarz studied law under Francis Zabarella, an outstanding professor and leading canonist of his day. Zabarella became a cardinal in 1411, and at Constance actively supported the position of the Poles against the Teutonic Knights.[45]

Paweł Włodkowic has been generally recognized by historians as the principal champion of the Polish cause, and the most formidable of the Order's opponents, but he was far from being the only Polish spokesman on the question of the rights of infidel nations. He has overshadowed the head of the Polish delegation, Archbishop Trąba, and his fellow scholar Laskarz lartely because his works have been more extensively investigated and analyzed. Włodkowic was an outstanding and learned delegate, as well as a decretalist of the first order, nevertheless, the work of certain others of the Polish delegation was of importance as well. This prejudice in favor of Włodkowic can be traced back as far as the *Historiae* of Długosz, which described him as, "worthy to be reckoned among the most illustrious of men because of his efforts in defense of Poland, and for the restoration of Kulm and Michałów."[46]

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[42] Finke, Acta, Vol. IV, p. 361.

[43] Morawski, L'Université de Cracovie, Vol. I, p. 137.

[44] Aleksander Brückner, Dzieje Kultury Polskiej (Warszawa, 1939), Vol. I, p. 530.

[45] Stanisław Bełch, Paulus Vladimiri (The Hague, 1965), Vol. I, p. 130.

Of similar significance and consequence was Andrew Laskarz, a nobleman of Gosławice, Provnice of Godziąba, who began his political career in 1392, by negotiating with the Teutonic Knights.[47] Later, he held an ecclesiastical position at Wrocławek, and in 1397, became Chancellor of the Kingdom.[48]

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[46] Długosz, *Historiae Polonicae*, Vol. II, Bk. XI, p. 563.

[47] *Ibid.*, p. 530.

[48] Morawski, *L'Université de Cracovie*, Vol. I, p. 133.

Early in the fifteenth century, (1404) he studied law at Padua. A remarkably talented orator, Andrew Laskarz spoke at the first session of the Council of Constance. At that time he declared Sigismund to be the mediator and defender of the Church, and deplored the difficulties it was experiencing. He added that his country was a faithful daughter of the Church, working sincerely and honestly for its increase. He extolled the virtue of humility as the best means of achieving ecclesiastical unity and world peace, recommending even to the Sovereign Pontiff the, "*virtus humilitatis*."[49] Outspoken in his eagerness for Church reform, Laskarz gained the reputation of an, "enemy of the Roman Church."[50]

Accompanying these Polish ecclesiastics were John of Tuliszków, Castellan of Kalisz and Zawisza Czarny of Garbów, who had the reputation for being, "most excellent knights of the realm...second to none in their steadfastness and practice of the Faith."[51]

Several additional Polish delegates came to Constance on August 2, 1416. Most notable of these was Peter Wolfram of Lwów. A member of the faculty at the University of Cracow, Wolfram served as a substitute delegate for the bishop of Cracow, Adalbert Jastrzembiec. Wolfram also had studied canon law at Gologna.[52] At the Council, he served as personal secretary to Archbishop Trąba, but also as Promulgator of Orders of the Day and of Decrees. It was Wolfram's duty to carry information back to Poland and the king.[53]

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[49] Hardt, *Constantiense Concilium*, Vol. IV, p. 591.

[50] *Ibid*., p. 1287.

[51] Dťugosz, *Historiae Polonicae*, Vol. II, Bk. XI, p. 219.

On November 28, 1416, the King of Poland appointed Peter Bolesta to the Polish delegation with the title of Apostolic Prothonatory. Albert, recently consecrated bishop of Cracow, accompanied Bolesta. Both delegates were charged by the king to work for, "peace and liberty."[54] Along with Albert of Cracow and Peter Bolesta, came Nicholas Spensky, a nobleman, and Gregory of Podolia. Much later, there arrived at the Council, representing the Lithuanians and Samogitians, Peter, bishop of Wilno, and John Rzeszowski, archbishop of Lwów.[55]

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[52] _Ibid_., p. 116.

[53] Hardt, _Constantiense_ _Concilium_, Vol. IV, p. 868.

[54] Długosz, _Historiae_ _Polonicae_, Vol. II, Bk. XI, p. 389.

[55] Hardt, _Constantiense_ _Concilium_, Vol. IV, p. 548.

C. Organization of the Council

Because of the vast number of delegates who attended the conference and in order to organize this body of representatives, delegates were organized into Nations, of which there were five: French, English, German, Spanish and Italian. Poland was placed within the German Nation. Furing the Council, all Nations were to meet separately in conclave. Each Nation had its proper delegates who were ecclesiastics, masters of doctors, and these were sent from one Nation to another when problems of general concern were discussed. Unfortunately, all did not operate smoothly within the Nations, where there was a great deal of disunity. In fact, much of the reform program at Constance was ruined by conflicts within and among the Nations. Matters so deteriorated, that a delegate from the University of Vienna remarked that, "it suffices that one Nation wants a reform for another to refuse it."[56] Peter D'Ailly criticized the system of Nations in his, De Potestate Ecclesiae as having been a factor of disunity and disruption in an assembly whose principal goal was to end disunity and disruption.[57]

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[56] *Ibid.*, p. 120.

In order to facilitate operation of the Council, a complicated hierarchy of officials and assemblies was arranged. This organization followed the traditional plan set by earlier medieval councils. Sigismund appeared at the Council sessions as, "protector of the Council," and if the Councl had any one effective president it was he. As protector, he overshadowed Count Bartoldo Orsini, whom John XXIII had appointed custos of the Council at the first session.[58] John complained about this self-assumed role of Sigismund saying he had, "presumed to preside," at the Council.[59] During his absence from Constance on journeys to Narbonne to obtain the deposition of Benedict XIII, and to England to arrange for peace between the English and French, Sigismund appointed Duke Louis of Bavaria to act in his place, overruling protests of the cardinals. Through Louis, and through letters and envoys, he continued to make his influence felt, but after his treaty against the French with Henry V of England, the French began to make the same complaints as John. Their alliance with the cardinals, with the support of the Italians, and most of the Spaniards, enabled this bloc to take control of the Council after Sigismund's return.[60]

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[57] Fliche and Martin, ed. Histoire de L'Eglise (Paris, 1964), p. 174.

[58] Hardt, Constantiense Concilium, Vol. IV, p. 172.

[59] Ibid., p. 157.

[60] Finke, Acta, Vol. III, p. 54.

Strictly speaking, the protector was charged only with keeping order by secular means. Officially, control of the Council was in the hands of the board of "general deputies" from the Nations, who set the agenda for the national assemblies and for the sessions, and cast the votes of the Nations in the latter.[61]

The deputies were elected or confirmed on the first of every month, and usually met in the meeting place of the German nation, the Franciscan monastery. Presided over by a "president of presidents," they discussed proposals submitted to them by Council Promoters, and took the draft proposals they agreed on to the assemblies of their Nations.[62] In the Nations, these were discussed, sometimes amended, to be sent back to the deputies' meeting, and voted upon. When agreement was reached between the Nations, proposals were read at a sessions, and national votes cast.[63] Besides presiding over their Nations, the presidents of presidents had the special function of issuing letters sent out to the Church at large.[64] The regulations for procedure in the

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[61] Ibid., p. 267.

[62] Finke, Acta, Vol. II, p. 769.

[63] Ibid., p. 771.

[64] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 592.

Council a dopted in August 1416, required that the president should not take sides on proposals when he brought them to the Nations, that the president of presidents should change each week, and should select matters to be laid before the deputies, that meetings of the deputies should be called on days when nothing else was happening, and that no one besides the deputies, unless specially invited, should be present at their meetings.[65]

The usual procedure at the sessions was for one of the promoters of the Council to request that actions agreed upon by the Nations be taken formally. The request approved, the reading was usually done by a notary, advocate, or one of the general deputies. The promoter then asked if the document read was approved, and the answer was given by the general deputies from each Nation and by the vice-chancellor, who had checked the reading against copies signed in the Nations by notaries. The promoter then asked the notaries to enter the document in the record of the session and made official copies as needed.[66]

A large part of the work of the Council was done by special commissions. Of these the most important were those concerned with the healing of the Schism. The first was appointed on April 17, 1415, to obtain the resignation of John XXIII.[67] At the beginning of 1417, a commission was formed to investigate the tract of the Dominican, John Falkenberg, which asserted that the Poles must be exterminated for having used the help of pagans against the Teutonic Knights at Grunwald.[68]

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[65] _Ibid._, p. 593.

[66] Loomis, _Council of Constance_, p. 57.

D. Freedom at the Council and the Election of Martin V

One of the chief concerns of the members of the Council was that all delegates have equal rights. The Cardinal of Cambrai urged that doctors of theology and canon law be allowed to freely express their opinions since these men were often more intelligent than many prelates. Peter D'Ailly proposed that, "prelates and abbots alone should not have a definitive voice, but that doctors of theology and canon law have the same rights.[69] Andrew Laskarz of Poland, in a speech delivered to the general assembly on November 8, 1415, insisted upon liberty for the various members of the Council to express themselves.[70] Finally, on November 12, 1415, the doctors present demanded that freedom be granted to all members of the Council. Eventually, John proclaimed that freedom and equality would be granted to all Council delegates.[71]

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[67] Ibid., p. 59.

[68] Lenfent, Histoire du Concile de Constance, Bk. VI, p. 579.

[69] Mansi, Sacrorum Conciliorum, Vol. XXVII, p. 560.

[70] Ibid., p. 561.

Shortly after the Council met, the Fathers agreed that the first and most important problem to be solved was that of the papal Schism. To achieve this end, the resignation or deposition of the three papal claimants was necessary. John XXIII agreed, on March 2, 1415, to renounce the pontificate if Gregory XII and Benedict XIII did the same.[72] But rather than abdicate, as he promised, John fled from Constance to Austria where Duke Frederick protected him. When Frederick withdrew his support, John was left without a defender. Accused in the Council of bad behavior, and many faults including simony and scandalous morals, he was deposed on May 29, 1415.[73]

During the difficulties experienced with John XXIII, Sigismund negotiated with Gregory XII and Benedict XIII seeking their abdication. The emperor planned to meet personally with the decision and accomplishments of the Council, and holding fast to the notion that he was the legitimate pope.[74] As for Gregory, Who was convinced of the legitimacy of Urban VI, and thus of his own, he sent a message to the emperor, first conviking the Council in his own name, and then indicating his abdication.[75] Gregory's abdication was accepted on July 4, 1415.

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[71] Hardt, Constantiense Concilium, Vol. IV, p. 41.

[72] I, John XXIII, for the benefit of all Christendom declare, promise, swear and vow to God, the Church, and this holy Council for the peace of the Church, to freely cecede the pontificate forever, should Benedict XIII, and Gregory XII likewise renounce their pretentions to the papacy, all for the peace of the Church and the end of the Schism. Hardt, Constantiense Concilium, Vol. IV, p. 45.

[73] Rinaldus, Annales, ad annum 1415, Vol. VIII, no. 23.

There now remained Benedict XIII, who refused to abdicate, and this despite the fact that Sigismund had personally met with him seeking his resignation. Because of his obstinacy, there was no other action left to the Council but deposition. At the thirty seventh session of the Council, on July 26, 1416, in the presence of Sigismund, Benedict was declared deposed.[76] Abandoned by all the prelates of his obedience, Benedict withdrew to Spain, to the fortress of Pensicola with three cardinals, who remained faithful to him to the end. On July 22, the Council declared Pedro de Luna, so-called pope, deprived of all rights, and a notorious heretic. Pedro de Luna survived his deposition by five years. He died on November 29, 1422.[77]

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[74] Finke, Acta, Vol. II, p. 211.

[75] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 733.

[76] Ibid., p. 1116.

[77] Finke, Acta, Vol. II, p. 65.

With the removal of Benedict XIII, the Council of Constance now faced the need to elect a new pope. The eagerness of all the Council Fathers was shared by Ladislas II, who wrote to the assembly that it should now complete the task of restoring unity to the Church by electing a new pontiff.[78]

Peter D'Ailly proposed that the Nations participate together with the cardinals in the papal election. It was decided that on this single occasion, the election of the head of the Church would be entrusted to two colleges. One of these was formed by thirty deputies named by the five Nations, six from each of them, the other of twenty-three cardinals of the three former obediences. These fifty-three electors met on November 7, 1417, and on the 11th of that month, they announced their choice, Otto Colonna, who became Martin V.[79] Thus was completed the chief task for which the Council of Constance had been assembled.

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[78] Ibid., p. 66.

[79] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 1114.

CHAPTER II

NATIONAL AND DOCTRINAL BACKGROUNDS TO POLAND'S PARTICIPATION IN THE COUNCIL OF CONSTANCE

At the Council of Constance the question of the relation between Christian and non-Christian states was examined. This was due especially to the action of the Polish delegation in bringing to the attention of the Council the conflict of policy between Poland and the Teutonic Order. The conflict was officially laid before the Fathers of the Council where the Polish delegates affirmed the right of all nations, even pagan nations to territorial independence. They declared that the doctrine of Christ should be spread by methods compatible with charity. They showed that the Teutonic Order, in the pursuit of its conquests, had shown no concern for the conditions of a just war.

To understand the notions of freedom and liberty as presented by the Polish delegation, it is necessary to consider the political and doctrinal backgrounds, as well as general conditions of the time, both ecclesiastical and secular, in Poland and western Europe. This is so, because the presentation of such notions by the Poles, was occasioned by an international controversy in which Europe, the emperor, the pope, and the general Council of Constance, the universities, and leading scholars were to a greater or lesser extent involved. Then too, a consideration of political and doctrinal backgrounds leads to the realization that Polish ideas of freedom and liberty were not created by the Polish delegation at the time of the Council, but were made explicit at that time, since they reflected certain attitudes and dispositions long cherished by the Poles and inherent in the political and legal institutions of Poland. One could say then that the Poles were expressing in polished, scholarly form, those values and ideals which Poland had long held important, not offering them for all of western civilization.[1] The notions of liberty and freedom of both individuals and natios, expressed by the Polish delegation at the Council of Constance were at heart inherent in the Polish spirit.[2]

A. Poland, The Empire and The Papacy

It was Otto I, crowned emperor in 962, who revived the campaign known in history as the Drang nach Osten. In the course of this push to the East, the Germans encountered the Poles,[3] and were surprised at the existence between the Bober, Vistula and Odra Rivers of a political organization ruled by Mieszko I (c. 922-992).[4] At that time the Odra River was the western confine of Poland. According to the Chronica Boguphali, " The Rhine and Danube are the chief rivers of the Germans, but the Vistula and Odra of the Poles."[5] The Gesta Hamburgensis Ecclesiae Pontificum, says that, "Beyond the Odra are the Poles," and the Dagome Iudex, a famous document, names the Odra River as the frontier of Poland, "usque ad flumen Odere, recte intro Odere, juxta flumen Odere."[6]

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[1] Andrzej Niesiołowski, "Paweł Włodkowic of Brudzeń," Baltic Countries, II, 2, (1936), pp. 225-226.

[2] Marian Friedberg, Kultura polska a niemiecka (Poznań, 1946), Vol. I, p. 250.

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[3] A brief but good account of German expansion to the East is given in: Henryk Bagiński, Poland and the Baltic (Edinburgh, 1942), pp. 65-73; also in: Maria Korniłowicz, Western and Northern Poland (Poznań, 1962), pp. 1-74.

[4] Magister Adamus, Gesta Hamburgensis Ecclesiae Pontificum ed. IM. Lappenberg (Monumenta Germanicae Historica, Scr. VII, p. 311). The first west-European annalist to mention Mieszko was Widukind in his Gestae Saxonicae (MGH, Vol. III, Ch. 66 and 67), or, Res Gestae Saxonicae (Monumenta Polonicae Historica, Vol. I, pp. 123-244.) Thietmar, bishop of Merseburg in his Chronica, (MGH, Scr. III, pp. 723-871), or Chronica Thietmari (MPH, Vol. I, pp. 231-274), is our main source of information concerning early German-Polish relations. Thietmar, however, is very biased against the Poles.

[5] Boguphalus II, Episcopus Posnaniensis, Chronica Poloniae, ed. Wacław Alexander Maciejowski (MPH, Vol. II, p. 470.).

Poland entered history as an organized nation which was not part of the Holy Roman Empire, and independent of every other power. Gallus Anonymus described Poland as a country, "frequently attacked by barbarians, yet by none of them ever subjected."[7] The emperor was regarded by the Poles as a ruler of the Germans, against whom they had to defend their independence even with the sword.[8] In 966, Poland accepted Christianity when Mieszko I, married Dąbrówka, daughter of Prince Boleslav of Bohemia, and asked Bohemia for Christian missionaries.[9] Soon afterwards, in 968, a bishopric was founded in Poznań, subject to the Holy See.[10] Two very important facts should be noted here. First, Mieszko received baptism from a western source and second, he managed to escape the Germans, who tended to hide their encroaching appetites with religion, and to destroy Slavic tribes in the name of the faith. By accepting Christianity, Mieszko strengthened his independent position.[11]

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[6] Magister Adamus, Gestae Hamburgensis Ecclesia Pontificum ed. I.M. Lappenberg, (MGH, Scr. VII, p. 349.). Dagome Iudex, ed. August Bielowski (MPH, Vol. I, p. 149.).

[7] Gallus Anonymus, Galli Chronica et gesta ducum sive principum Polonorum, ed. C. Maleczyński (MPH, Vol. I, p. 395.).

[8] Wincenty Kadłubek, Chronica Polonorum sive originale regum et principum Poloniae, ed. A. Bielowski (MPH, Vol. II, p. 262.)

[9] Gallus Anonymus, Chronica, (MPH, Vol. I, p. 399.). "Mieszko was the first of the Poles to receive the grace of baptism and then because of his wife (Dąbróka). During his reign and through his efforts, Christianity came to the Kingdom of Poland." Concerning Dąbrówka, Gallus says, "It was Dąbrówka who brought the faith of the Universal Church to Poland... she avoided error, and contemplated always the Christian virtues and the faith of the Church."

Shortly after her conversion, Poland recognized the spiritual supremacy of the Holy See in a document known as the Dagome Iudex, 922, in which Poland also solemnly dedicated herself to the Chair of St. Peter.[12] As the "patrimony of St. Peter,"

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[10] Stanisław Bełch, Paulus Vladimiri (The Hague, 1965), Vol. I, p. 47.

[11] Waclaw Lednicki, Life and Culture of Poland (New York, 1944), p. 80.

[12] In another volume bearing the date of John XV, one can read that Dagome the Judge, Ote the senatrix and their sons Misica and Lambertus (the latter two being born of the Duke's second marriage with Oda,) I do not know of what nationality, but I think they were Sardinians, because these were governed by four judges, presented to St. Peter an entire city called Schinesne with all its territory, enclosed withing the following frontiers: starting first from the long sea shore as far as Pruzze running to the country called Russe, and extending as far as Cracow, then to the River Odra and straight to a place called Alemure, and from Cracow to the land of Milze, from Milze right on to the Odra and along its banks as far as Schinesne, mentioned previously. (Dagome Iudex, MPH, Vol. I, pp. 148-149.) For a commentary and interpretation of Dagome Iudex, see Francis Dvornik, The Making of Europe, p. 315.

Poland was immediately subject to the Chair of St. Peter, while the pope was to guard and defend her sovereignty against all enemies, including the emperor.[13] Nevertheless, upon entering the family of Christian nations, Poland had to establish relations with the Holy Roman Empire. Although Mieszko I paid tribute to the emperor, he nevertheless resisted German invasions as well. Thus, there deveoloped in Poland rather early, the idea that although the Poles acknowledged the superior force of the Empire, this did not subject them to the force of the Empire. Boleslaus I (d. 1025), affirmed Poland's rights with regard to the Empire. At the same time, he cooperated with Emperor Otto III, (983-1002), in an agreement which placed Poland on an equal footing with Germania. In this respect, Boleslaus was viewed as a, "brother and cooperator of the Empire, and a friend and socius of the Roman people".[14]

From the point of view of legal formula, Poland recognizing the emperor's *auctoritas*, without, however, recognizing subjection to the imperial *potestas*.[15] When Henry II, (1002-1024), successor of Otto III, tried to force his *potestas* upon the Poles,[16] Boleslaus I fought back asserting the independence of Poland.[17]

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[13] Zygmunt Wojciechowski, L'Etat Polonais au Moyen Age (Paris, 1949), p. 51.

[14] And he placed the imperial crown upon the head of Boleslaus, receiving him as a friend,...and as a sign of triumph, gave him as a gift, a fragment from the cross of the Lord, along with the lance of St. Maurus, for which Boleslaus gave him in return a relic of St. Adalbert. And there was much rejoicing on that day, because the emperor considered him (Boleslaus) a brother and a cooperator of the Empire, calling him a friend and ally of the Roman people. Gallus, Chronica, (MPH, Vol. I, p. 401). For an explanation of the position of Boleslaus, see: Z. Wojciechowski, "Le patrice Boleslaus Vaillant, " Revue Belge de Philologie et d'Histoire, XXIX, 1, (1959), pp. 33-90.

Another aspect of Poland's view of the Empire is revealed in a formula of Boleslaus III, (1102-1139), in which the religious and secular aspects of the Empire are distinguished. Poland rejected the latter, but accepted its role as defender of the Church.[18] The strongest argument against Poland's political dependence on the Empire was her direct allegiance to the pope. According to thirteenth century Polish tradition, "the Holy Roman Church is the master of the world, our mother, to whom God has granted the fulness of power, who treats us with maternal love."[19]

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[15] Bełch, *Vladimiri*, Vol. I, p. 49.

[16] "Henry, the Emperor with a great number of troops set out to destroy Poland, and attacked the fortification at Lubusz." Gallus, *Chronica*, MPH, Vol. I, p. 465-466.

[17] "Because of this attack, he took up the sword." Boguphalus, *Chronica*, MPH, Vol. II, p. 504.

[18] Kadłubek, *Chronica*, MPH, Vol. II, p. 301.

In asserting the independence of Poland, Wincenty Kadłubek, says that, "neither the pope nor the emperor can appoint the King of Poland. Their authority is limited to the maintenance of order, and laws enacted by the Polish Kingdom."[20] It is true that the first Polish kings received their crowns from the pope, but this did not imply political dependence of the state upon the papacy, nor the appointment of the king by the pope. As for the authority of the king, this came from the people.[21] In the early decades of the fourteenth century, the Poles regarded the pope as the guardian of justice between independent kingdoms, and considered him an international judge. Concerning the Polish sense of independence at this time, there is a letter, dated April 26, 1357, written by the Chancellor of the Empire to the Grand Master of the Teutonic Order. The

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[19] The Letter of Leszek the White, dated April, 1217, to the newly elected Pope Honorius III, *Registra Vaticana*, anno I, fol. 92, no. 325, quoted in Bełch, *Vladimiri*, Vol. I, p. 50.

[20] Kadłubek, *Chronica*, MPH, Vol. II, p. 343.

[21] *Ibid.*, p. 252.

Chancellor wrote:

> The Poles reject the imperial authority, and do not want to have the emperor as their judge. They do not recognize the majesty of the emperor, and the Roman Law. Thus Spytko of Melsztyn, ambassador of King Kazimierz...has declaimed everything that the divine Frederick II...bestowed on your Order. "What is the emperor," he said, "but a neithbor of ours, and our king's equal. The emperor is inferior to the pope, he takes an oath to him, whereas our king holds the crown and the sword bestowed upon him by God, and prefers the laws and the traditions of his ancestors to the imperial laws." [22]

Early in the fifteenth century, submission to the papacy was viewed as confined to religious matters. However, the power and authority of the papacy were held in high regard in Poland.[23] As Kazimierz Morawski points out in his Histoire de L'Universitè de Cracovie, "The papacy in Poland was called, 'The Light of the Universe,' and looked upon as a source of wisdom and knowledge."[24] During all the papal difficulties at the time, Poland adhered to the popes at Rome.[25] When the Polish delegation at Constance, through Paweł Włodkowic stated that the power of the papacy was superior to that of the emperor, it was expressing a notion, not of the delegation alone, but of the entire Polish nation. At the Council, Poland's position with regard to the relation between the *imperium* and *sacerdotium* was simply that Sigismund, should fulfill the function of *defensor* and *mediator ecclesiae* in order to bring about the desired peace and unity. These were the very words used by Andrew Laskarz, bishop of Poznań when he spoke at the first session of the Council of the role to be played by Sigismund.[26]

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[22] Tadeusz Czachi, Dzieła, Vol. III, p. 112, is quoted by Karol Szajnocha, Jadwiga i Jagiello (Lwów, 1861), Vol. I, p. 52.

[23] Louis Brunot, Pologne d'hier et d'aujourd 'hui (Paris, 1949), p. 132.

[24] Morawski, Histoire de L'Universitè de Cracovie, Vol. I, p. 121

During the time of the Council of Constance, the papacy had lost much of its prestige. This was due extensively to the Western Schism, and the development of the Conciliar Theory. At Constance, the sentiment was expressed that, "The whole world deplores the infamous duality, and now trinity, not blessed but damned," referring, of course, to the papal claimants.[27] Under these circumstances, Sigismund summoned the

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[25] Długosz, *Historiae Polonicae*, Vol. II, Bk. X, p. 26.

[26] Gian Domenico Mansi, *Sacrorum Conciliorum nova et amplissima collectio* (Vienna, 1960-61), Vol. XXVIII, p. 524.

[27] Heinrich Finke, *Acta*, Vol. II, p. 509.

Council to meet in the southern German town of Constance. Sigismund, however, tried to maneuver, dominate and even control the Council.[28] He liked to think of himself as the, protector of the Council, and indeed, if the Council had any one effective head, it was he.[29] Sigismund wanted it to take place on German soil, have the pope elected there according to his wishes, and finally, have the pope reside in Germany as his chaplain.[30] Hoping to advance his authority, the pro-imperialists claimed that the emperor should decide which of the three contestants for the papal crown would be pope. The pro-papists, however, spoke of the plenitudo potestatis of the pope.[31] John Gerson, adding support to the position of the papacy, rejected the notion that it was necessary to have one, universal political head, but insisted upon the need for one head in matters of faith, "It is a greater need, that there be one pope, than that there be one emperor."[32] He believed, however, that a general council was superior to the papacy, and an infallible guide in the reformation of morals in head and

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[28] Loomis, The Council of Constance, p. 15.

[29] Ibid., p. 12.

[30] John P. McGovan, Pierre D'Ailly and the Council of Constance (W ashington, 1936), p. 48.

[31] Jacques Lenfent, Histoire du Concile de Constance (Amsterdam, 1727), Bk. II, p. 103.)

[32] John Gerson, "Sermo coram rege de pace et unione Graecorum," Oeuvres Complètes (Paris, 1961), Vol. II, p. 37.

and members of the Church. He considered such a general Council to have the final word in matters of faith, for it embraced, at least virtually, every kind of authority: papal, regal, aristocratic and scholarly.[33]

Attitudes toward the papacy in the fifteenth century were the result of political thought of the fourteenth. They were manifestations of political Averoism working through theorists such as Marsillius of Padua, and through the policy of princes such as Philip the Fair and Louis of Bavaria. These men hoped to advance the growth of secular absolutism regardless of religious and moral principles. Such Averroistic notions were particularly strong in the Ordenstaat in Prussia, whose founder was Frederick II.[34] In the Golden Bull of 1226, he enunciated the purpose and duties of the Teutonic Order in Prussia and associated the role of empire with that of the Church saying, "For this end God has established our empire, to extend the faith to all kingdoms even to the ends of the earth."[35] The spirit of association became one of domination, and the Order at the twenty first session of the Council in June, 1416, made the claim that it alone had the right to send missionaries into northern European territories.[36] The Teutonic Order emphasized the supremacy of the state, which in turn created a Church that was, "nothing but a constituent part of the state."[37]

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[33] Gerson, "De Potestate ecclesiastica," Vol. II, Ch. 12, p. 752.

[34] Be~~l~~ch, Vladimiri, Vol. I, p. 56.

[35] Huillard-Breholles, Historia diplomatica Frederici Secundi (Paris, 1856-61), Vol. II, p. 550.

At Constance, representative of the Order confirmed and intensified the ideas set forth in the Golden Bull, defending the Order's territorial achievements upon that basis. Although the Order acknowledged the pope as the supreme prince of Christendom and ruler of the Church, it claimed Sigismund to be the, "supreme power of the whole world."[38]

B. Rights of Infidels and Infidel Nations

One of the principal problems which concerned the Polish delegation at the Council of Constance was the rights of infidels and infidel nations in respect to claims of papal and imperial universal authority. This question arose because of military conquests made by the Teutonic Order and papal bulls which the Order claimed legalized these conquests. Implicated in this matter was the question of conversion by force, of war aimed at the political subjection of infidel nations to the Empire, and the distinction between peaceful and non-peaceful infidels. The Poles at Constance asserted the rights of all peoples, pagans included, to territorial independence, and declared that Christ's doctrine should be extended by means compatible with charity. However, it is necessary to review the historical background of these assertions in order to understand more clearly, the position presented by the Poles.

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[36] Heinrich von der Hardt, Magnum Oecumenicum Constantiense Concilium (Berlin: Henningius, 1742), Vol. II, p. 442.

[37] Heinrich Gotthard von Treitschke, Origin of Prussianism (London, 1942), p. 26.

[38] Finke, Acta, Vol. II, p. 391.

Because of Christ's command to the Apostles, "Go into the world and preach the Gospel to all nations," (Mark, XVI, 15), it was believed that only the Church had the right and duty to preach the Gospel, and since the command came from God, all men had the obligation to allow the preaching of the Gospel. In the early Church, however, there was a tendency to use rational persuasion, implying an appeal to man's free will, in seeking converts to Christianity. This approach was in keeping with that of Christ, who likewise appealed to human understanding.[40]

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[40] St. Augustine, De Vera Religione (PL, XXXIV, Ch. XVI, p. 136.

During the first six or seven centuries of Christianity, the blood spilt in the name of Christianity was that of martyrs. The Church encouraged the growth of independent nations and became part of the national life in each country. At the same time, it considered itself a supra-national institution. Augustine of Hippo believed that people could practice those customs which did no violence to faith or morals.[41] St. Gregory the Great ordered St. Augustine of Canterbury to introduce into England (c. 597) those Roman laws which were suited to the mentality of the English and added that, in establishing the Church, he should permit those religious practices which were pious, upright and not opposed to the truth. These he said should be considered customs of the people.[42]

The Decretum compiled by Yves de Chartres, (d. 1094) recalled the teachings of the Fathers of the Church, and of the popes concerning conversion. It appealed to free will, and recommended the peaceful method of winning converts, sharply prohibiting violence.[43] Similar notions of peaceful conversion were found in the Decretum Gratiani of the twelfth century (c. 1140)[44] and in the Decretals of Gregory IX (1227-1241).[45] The practice of the popes with regard to non-Christians tended to follow these peaceful principles, but combined them as well with diplomacy. In this way, whole nations entered the Church. From the ninth to the twelfth century, for example, Great Moravia, Bohemia, Poland, Hungary, Norway, Sweden and Pomerania were converted as national kingdoms. In the opinion of Daniel Rops, the Church went national, supporting the independence of nations.[46] In this process of converting entire nations to Christianity there was a hidden problem, for conversion was generally brought about by kings. Thus, Christianity, which had previously addressed itself to the masses, and relied on the principle of liberty, now made its appeal to rulers, and threw its influence to the side of authority.[47]

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[41] I cannot approve those things which are intimately bound with the faith of infidels. However, all other things which are not opposed to Sacred Scripture nor to the episcopal councils nor the customs of the Universal Church should not be forbidden. These are neither opposed to the Faith of Christ, nor the religion of God. The Church of God finds itself among many peoples in many places and with various customs. These should be tolerated unless they are against the Faith. St. Augustine, Epistolae, PL Vol. XXXIII, epist. LV, p. 221.

[42] Gregory the Great, Epistolae (PL, Vol. LXXVII) epist. XI, p. 1187.

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[43] Yves de Chartres, Decretum, (PL, Vol. CLVI), p. 776

[44] Decretum Gratiani (PL, Vol. CLXXXVII), Quaestio IV, p. 1076.

[45] Decretalis Gregorii IX, (PL, Vol. CXLII), p. 167.

[46] Henri Daniel Rops, L'Eglise des Temps Barbares (Paris, 1955), Vol. I, p. 665.

The need to defend Christian states against aggressive infidels grew into the practice of defending the Church by force of arms against pagan enemies. Such wars of defense were called, "just wars," and formed part of the natural law teaching during the Middle Ages.[48] This in turn gave rise to the notion that the best way of converting infidel-barbarians was to defeat them in battle, as for example, in the case of the Saxons. Conflicts with Islam led to the use of the sword in defending Christianity, making converts and winning territories as well. From this attitude there was only one step further to fighting non-believers because they were non-believers. Wars of conquest and the extermination of heathen populations resulted. Colonizing expeditions used by Germans against Slavs brought about racial enmity. The Slavs were constantly revolting against this external force, which in turn led to further crusading expeditions to subdue and punish the relbls. When affairs of the Church, especially in areas far from Rome, fell into the hands of the emperor, missionaries pursued the imperial course.[49] Priests and monks followed the troops, or the troops followed the missionaries. During the time of St. Bernard of Clairvaux (d. 1153), the situation was such that Bernard thought pagans should be esterminated, rather than allowed to menace Christianity.[50] Concerning the military-religious conquests of the Germans, it must be asserted that the bearers of Christianity were not totally lacking in feeling or sympathy for the neophytes. Nor did they believe they were doing anything but the best for them. Illustrating this point is the Chronicle of Henry of Livonia which reveals Henry's deep affection and love for the prospective converts. Although Henry, a German, did not identify himself with them, he looked upon himself and the other Germans as agents of a higher culture, whose duty it was to convert the native peoples to Christianity. Henry had no sympathy for those who wished to burden the newly converted Christians with excessive burdens, and emphasized the fact that the faith of Christ should be sweet and light.[51]

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[47] John Emerich Edward Acton, Essays on Freedom and Power (Boston, 1948), p. 61.

[48] Peter T. Drost, The Crime of State, Humanicide (Leyden, 1959), p. 266.

[49] T.F. Tout, The Empire and the Papacy (London, 1901), p. 379.

In the Golden Bull, Frederick II claimed that he had the authority to lead the whole world to the Christian faith, and described the means he intended to use to bring this about. "The whole earth," he used to say, "looks forward to imperial domination." He claimed for the emperor the power to destroy, convert, and subject all nations.[51]

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[50] St. Bernardus, _De militibus Christi_ (PL, CLXXXII), p. 924.

[51] _The Chronicle of Henry of Livonia_, trans. by James A. Brundage (Madison, 1961), p. 200.

The Teutonic Knights also practiced conversion by the sword, or conquest and extermination. This organization, partly due to the image created by its monastic rule and religious habit, gained the approval of the papacy and most of Europe. For nearly three hundred years, it put its principles into practice, strongly advocating conversion by force and conquest. Later, the missionary ideal became only a pretext which hid its real aim of territorial conquest, and extermination of native inhabitants. As Długosz put it, " The Order intended that news of its cruelty should so frighten the hearts of men in other towns and fortresses, that no one would dare oppose it, and so the task of further occupation would be easier and safer."[52]

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[51] It was for this purpose that God established our Empire, that we might extend the faith to every nation even to the ends of the earth and thus magnify His name in the world. We intend, therefore, to perform this mission, that is, the conversion of all peoples, and to subject all barbarian nations to the worship of God. Huillard-Breholles, Historia Diplomatica Frederici Secundi, Vol. II, Part I, p. 550.

The ideas and practices toward infidels current in Poland duringthis time were contrary to those of the Order. The two opposing attitudes were the cause of much conflict between the two factions. Physically, the opposing points of view came into conflict at the battle of Grunwald,[53] and theoretically at Constance. The Poles at the Council defended the rights of infidel nations and peoples in a manner which appeared radical to some, heretical to others.

Perhaps the Polish point of view can partly be explained by the fact that Poland was influenced to some extent by Byzantine Christian culture, because of her geographical position. While western Europe was developing a war-like attitude toward pagans, Byzantium considered fighting them undesirable, though sometimes unavoidable. In the tenth century, there were Byzantine monks in Italy who greatly influenced the missionary thought of the Church. Three of these were: Nilus, Abbot of Valleluce near Rome, Abbot Leon of SS. Boniface and Alexius, and St. Romuald of Ravenna.[54] Boleslaus I came under the influence of these Italian centers through St. Adalbert, and in his missionary efforts used many priests from the monastery of St. Romuald, which his son entered.[56] He sponsored two missionary ventures into Prussia, the first led by St. Adalbert.[57] It was during this expedition that Adalbert was martyred, (c. 997)[58] Bruno of Querfurt led the second mission. He conceived a plan for the conversion of northern Europe, including Sweden, selecting Poland as the jumping-off place for his expedition. Assistance was provided by Boleslaus.[59] Bruno and his companions also died as martyrs at the hands of the Prussians in 1009.[60]

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[52] Długosz, Historiae Polonicae, Vol. II, Bk. XI, p. 251.

[53] On July 15, 1410, the Knights and the Poles met at Tannenberg, which the Poles called Grunwald. There, a battle took place which was one of the most important of the Middle Ages. On the German side, there were about 12,000-15,000 men, on the Polish side a mass of about 20,000. The German army was entirely routed by the King of Poland. (Christian Krollman, The Teutonic Order in Prussia, Leipzig, 1939, p. 61.) In this battle the Poles were victorious in spite of the fact tat the Order controlled a well organized armed force. The defeat of the Knights put a stop to the German, "Push to the East," which had gone on uninterrupted for some five centuries. Maria Kornilowicz, Western and Northern Poland (Poznań, 1962), p. 35.

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[54] Francis Dvornik, The Making of Central and Eastern Europe, (London, 1949), p.104-105.

[55] For the influence of St. Adalbert upon Boleslaus see: Jan of Kanaparz, Vita et Passio Sancti Adalberti Martiris (MPH, Vol. I, pp. 157-183; and Brunoni, Vita Adalberti (MPH, Vol. I, p. 212-245.

[56] St. Petri Damiani, Vita S. Romualdi (PL, Vol. CXLIV), p. 979.

[57] From the land of the Poles, and sent by Boleslaus, your neighbor in Christ, I come to you for your salvation. I, a servant of him who made heaven and earth, sea and sky, all that are therein. I come to free you from the hand of Satan, that you may know your Creator. Brunoni, Vita S. Adalberti, MPH, Voll. I, p. 213.

[58] Acta Sanctorum quotquot toto orbe coluntur, vel a catholicis scriptoribus celebrantur, Bollandus, ed. (Paris, 1863-1940), Vol. III, p. 176.

Influence of the Cluniac monastic reform reached Poland and her royal court through Casimir I, (1025-1058), who was educated in the Benedictine monastery at Cluny.[61] Many abbeys were built along the Odra River to serve as missionary centers for western pagans, while others were established for the conversion of Pomeranians, Prussians, Lithuanians and Jadzwingians.[62] The missionary doctrine of the School of Chartres animated these conversions. The papal legates: Galen a monk of Cluny, Baldwin, who later became bishop of Cracow, as well as St. Otto, bishop of Bamberg whom Boleslaus III particularly invited to work in this area, brought the doctrine of Chartres to Poland in 1103. The _Tripartitia_ of Galen expressed the attitudes of these missionaries toward pagans. It prohibited forced conversions of non-Christians, and recommended only reasonable persuasion as the method of conversion.[63] On the other hand, because of the great advantages of the faith to the individual and community, they believed that force might be permitted by princes but without any destructive effects upon the coerced.[64] This may explain the wars conducted by Boleslaus against the Pomeranians.[65] Then too, these wars were conducted against the Pomeranians primarily to defend Polish borders.[66] Ebbo, author of the Vita Sancti Ottonis, likewise indicates that the wars of Boleslaus were waged as defensive wars. With regard to the Pomeranians, he said this was particularly true, adding that they had attacked the Poles after lapsing into paganism.[67] Only after their defeat in 1121, did the Pomeranians change their attitude about accepting Christianity, and agreed to receive missionaries agains. Even then Boleslaus did not occupy the country completely, but left it under the rule of its prince, Warcisław. The formal acceptance of Christianity came as the result of preaching, and long deliberation by town councils of important cities, and the consent of the people who had the option of refusing. After their conversion, the Pomeranians retained their national and political individuality, although they came under the suzerainty of Poland. According to the German biographer of St. Otto, the Pomeranians, although defeated by Boleslaus, still regarded the Poles as their brothers, "*fratres nostri Polonenses*."[69] The chronicler Herbold says that Boleslaus insisted that the

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[59] Dvornik, _The Making of Central and Eastern Europe_, p. 213.

[60] _Acta Sanctorum_, "De Sanctis martyribus Brunone et XVIII Sociis in Prussia," Vol. II, p. 797.

[61] Kazimierz, the King, with a dispensation from the pope, left the monastery at Cluny where he had been professed and educated. Gallus, _Chronica_, MPH, Vol. I, p. 415.

[62] Constantine R. Jurgela, _A History of the Lithuanian Nation_, (New York, 1946), p. 127.

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[63] Bełch, Vladimiri, Vol. I, p. 76.

[64] Ibid., p.77.

[65] Boleslaus III conducted many campaigns against the Pomeranians. He attacked and conquered their land with the best of his soldiers. Gallus, Chronica, (MPH, Vol. I) p. 473.

[66] The Pomeranians attacked the Poles, and a war with them began. Boleslaus set out for Pomerania with many men, again he led to the faith many from infidelity. Gallus, Chronica, Vol. I, (MPH,) p. 456-57).

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[67] While he was away, the Pomeranians who had lapsed into paganism attacked the fortifications of Boleslaus. Thus Boleslaus prepared his army for war. The Poles then invaded the land of the Pomeranians. Eventually, Boleslaus overcame the Pomeranians, and destroyed their power. Ebbo, *Vita Sancti Ottonis Episcopi Bambergensis*, (MPH, Vol. II,), p. 60.

[68] Ebbo, *Vita S. Ottonis*, (MPH, Vol. II), p. 54.

[69] The Duke of the Pomeranians, as a token of his esteem decreed that a great quantity of money be brought to the tomb of Blessed Adalbert, the martyr. He himself came to venerate the grave, calling the Poles, "our brothers." Ebbo, *Vita S. Ottonis*, (MPH, Vol. II), p. 64.

Pomeranians not be branded as slaves, nor killed or tortured. They were not to be raided or plundered, but treated as brothers.[70] The conversion of the Pomeranians was such that three centuries later, they pointed to its circumstances as an argument for their independence.[71]

Wincenty Kadłubek, whose views were probably drawn from the Decretum Gratiani, was among the first Poles to formulate principles regarding the use of force in the conversion of infidel nations, and the relation of Christian to pagan nations. He held that coercion in matters of belief was criminal, that coercion is against divine law, and that freedom is essential in moral matters. He did claim, however, that once the faith was accepted, it must be kept, and further, that in many instances good could be done to a person against his will. Nevertheless, he insisted upon the basic principle that coercion in moral matters did not give lasting results, because the degree of adherence to the faith depended upon the degree of freedom with which it was accepted. Besides, he said, from the point of view of law, no obligation obtained by force was valid.[72] When he discussed the wars conducted by Poland with pagans, he said these were carried on as defensive measures not motivated by difference in religion or desire for plunder. The purpose of war, he said, should never be compulsory conversion, permanent conquest or the destruction of a nation's independence and individuality. He emphasized that only just wars could be fought, and then, to achieve peace.[73]

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[70] Herboldus, Vita Ottonis Episcopi Bambergensis, (MPH, Vol. II), p. 78.

[71] Bełch, Vladimiri, Vol. II, p. 67.

The theory that heathens have no rights, and that they are outside the established world order, became crystallized among the Germans in the course of their wars conducted against the Slavs. The words, "heathen," and "barbarian" in the German mind, became identified with, "Slav." Even after the conversion of the Slavs, this notion remained. Such an attitude was due laregly to the fact that the Germns believed no conversion was real or valid without submission to the Empire. Thus missionary activities carried on by the Empire, were in fact, aimed at conversion to Christianity through the Empire. This manner of looking at all peoples east of the Germans as barbarians was rather common in western Europe by the time the Teutonic Order came to Poland in 1226. Add to this the fact that the German clergy looked upon the emperor as the effective head of the Church, and the expansion of Germany was then viewed as co-extensive with the expansion of Christianity. Under such circumstances, there existed a situation ripe for military conquest, hidden under the guise of religion. If pagans did not submit, they would be annihilated. Since pagans soon came to look upon conversion as submission to foreign rule, it is easy to understand why many missionaries were killed. This in turn, gave the Knights an occasion for crusading against the barbarians.[74]

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[72] Kadłubek, *Chronica Poloniae*, (MPH, Vol. II, Bk. I), p.253.

[73] *Ibid*., p. 254.

The Cistercians, who were brought to Poland in 1140, began the peaceful evangelization of the Prussians.[75] In the process of this work of conversion, the influence of Polish culture and law upon the Prussians was so strong that A.

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[74] Kazimierz Tymieniecki, *Misja polska w Prusiech i sprowadzienie Krzyżaków* (Toruń, 1935), p. 2.

[75] The problems of the Polish missions in Prussia before 1226, are dealt with in the works of Tadeusz Manetuffel: "Proba tworzenia cysterskiego państwa biskupiego w Prusach," *Zapiski Towarzystwo Naukowego*, Vol. XVIII, (Toruń, 1953), p. 157-174. And in: "Papiestwo icystersi i ich rola w Polsce na przełomie XII i XIII w." *Ibid*., 1955, p. 87.

Brückner writes that if the Prussians had not been subjected to the Teutonic Knights, they would have become Christian, as the Lithuanians did, without losing their identity as a nation.[76] Conrad of Mazovia is traditionally held to have invited the Teutonic Knights to help him convert the Prussians. However, as Henryk Bagiński points out in his, Poland and the Baltic, this act of invitation did not effect the sovereignty of the Polish crown over the lands that were conquered.[77] It must be pointed out, however, that no monastic order or order of knights was allowed to start any action such as this, unless it had been granted some appropriate guarantee in the form of territorial possession. In addition, Frederick II, granted to Herman von Salza, Grand Master of the Order, and to his Brothers, "authority over the land of Culm and all the land granted to them by the Duke of Mazovia and Kujavia, as well as those parts of Prussia which they might conquer."[78]

Military activities in this area actually began in 1207 when Albert bishop of Livonia, established the Order of the Knights of the Sword to convert Livonians who were still pagan. Soon afterwards, Honorius III (1216-1227) took the people of this territory under the protection of the Holy See. It this way, the pope hoped to defend the rights of the people against the imperial policy of annexation and expansion.[79] The Golden Bull of Frederick II in 1226, was a counterattack against this move by the pope, for in it, Frederick expressed the notion that papal missionaries were ineffectual, and presented his own method, which he had applied to the Wends, that is, the purely military metbd of breaking all resistence, and forcing the pagans to accept Christianity or suffer annihilation.[80] Gregory IX (1227-1241) opposed these aims of Frederick, and defended the Prussians without any intention of creating a papal vassal state there. In a letter of 1230, the pope stated that the Order was in Prussia for the defense of Christians, and when the pagans received baptism, the Order's authority over them would end.[81] Herman von Salza, meanwhile, simply went ahead with his own notions of creating a sovereign state and ignored the papal missionary ideal. He relied upom imperial protection and authority which had granted him independence and sovereign attributes, thus cutting his ties of dependence upon the papacy. In response to this action of Salza, the papacy decided to use Dominicans to convert the Prussians, and again limited the authority of the Order to the defense of the newly converted. In fact, however, the Order simply used this authority to continue its work of conquest and subjection.[82] During this controversy, Frederick II, granted to the Order in the Bull of 1245, all territories they could touch with their military banners, on the theory that according to the ,"*vetus et debitum ius imperii*," all infidel land belonged to the Empire and was, "*sub monarchia imperii*."[83] Subsequent emperors, Henry VII in 1311, Louis of Bavaria in 1337 and Charles IV in 1357 renewed and confirmed these grants with the approval of the archbishops and bishops of Germany.[84] According to Henry VII, (1308-1313) the Order deserved these grants because it was sacred, dedicated to God and the enlargement of the Empire.

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[76] Aleksander Bruckner, Dzieje Kultury Polskiej (Warszawa, 1939), Vol. I, p. 409-10.

[77] Henryk Bagiński, Poland and the Baltic (Edinburgh, 1942), p. 69.

[78] Historia Diplomatica, Fredericii Secundi, Vol. II Part I, p. 548.

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[79] Fliche and Martin, Histoire de L'Eglise (Paris, 1964), Vol. X, p. 222.

[80] Bełch, Vladimiri, Vol. I, p. 103.

[81] T. Działyński, ed. Lites et res gestae inter Polonos Ordinemque Cruciferorum (Posnaniae, 1856), Vol. I, Part II, p. 87.

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[82] Bełch, *Vladimiri*, Vol. I, p.72.

[83] Huillard-Breolles, *Historia diplomatica Frederici* Secundi, Vol. II, Part, I, p. 551. "We grant them all rights and jurisdiction over the land and people whom they conquer, and we by our authority forbid any prince, duke or monarch, be he a person of high or low birth, ecclesiastic or layman to protest this concession."

[84] Bełch, *Vladimiri*, Vol. I, p. 76.

Louis of Bavaria initiated the theory that the emperor had the right to destroy infidels, and that the Order was created by the Empire for the execution of this task for the glory of God. He granted to the Order, for all time, full sovereignty rights over the lands it conquered. He said the Order was subject to the Empire and to nothing and no one else, not even to the pope.[85]

In his Apparatus to the Decretals of Gregory IX, Innocent IV a canonist, studied carefully the problem of the relation of infidel nations to the Empire. As imperfect and incomplete as his doctrine may be, it is among the earliest championing the right of such nations. Innocent held that the state is an expression of natural law and looked upon infidel states as legitimate, and their possessions as valid.[86] Such a pronouncement was all the more important when one considers that during the Middle Ages, the concept of natural law formed part of Christian belief in a divine world order.

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[85] Marian Biskup, Zjednoczenie Pomorza Wschodniego z Polską w Połowie XV w. (Warszawa, 1956), p. 16 and 18.

[86] Natural law has been defined as that law created by God, planted by him in the soul of man. It consists essentially in the human faculty to discern right from wrong, just from unjust. Natural law is the reason of man, simply. Some natural laws are evident to everybody, others detected by reasoning. Together they form a body of rules immutable. Neither princes nor pope, person or people can alter it. Peter Drost, The Crime of Humanicide, p. 235.

Many canonists identified it with divine law. Natural law was thought to infuse the inspiration of God into the minds of men.Neither the pope nor the emperor nor anyone else could deprive infidel states of their possessions, sovereignty or domination Innocent taught.

Innocent's successor, Alexander IV(1254-1262), vacillated between trying to enforce the moderate principles of his predecessor, and surrendering to the demands of the Order. In general, however, his policies tended to entrench the Order more firmly since papal privileges were broadened and became more extensive.[87] On January 1, 1257, however, he excommunicated the Order for attacking the pagan Polexani whose territory had been conceded by Innocent IV to the princes of Kujavia.[88] He also organized a bishopric on Polish territory as a base for the Franciscan missions in Lithuania. On March 3, 1255, in congratulating Mindove of Lithuania upon his conversion, Alexander confirmed his Russian acquisitions, so that he might more easily subject the neithboring territories to his dominion and bring them the Christian faith.[89] Step by step, Alexander came under the influence of the Order so that he confirmed its conquests and acquisitions in Prussia and Polish Culm.[90] Later he granted to the Order, "all territories, regions, castles and whatever places, with the aid of Christian soldiers, they might take from the pagans for the purpose of bringing them to the Christian faith, so long as these lands did not belong to Christians.[91]

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[87] Horace K. Mann, Lives of the Popes (London, 1929), Vol. XV, p. 182.

[88] Ibid., p. 197.

[89] Belch, Vladimiri, Vol. I, p. 261.

Clement IV (1265-69) confirmed all the grants of Alexander, so that the missionary philosophy of the popes was now more or less in agreement with that of the emperors. Unfortunately, due to this turn of events, the rights of pagan populations were disregarded, and little attention was paid to the methods of conversion that were used. The popes tended to grant whatever favors the Order asked for. It was the Poles, in their pronouncements on liberty and freedom at the Council of Constance, who first pointed out the injustices committed against the pagans, and one of the Polish delegates went so far as to say that such favors and privileges were not only illegal, but heretical. In spite of their neglect, however, the popes, always placed newly converted peoples under the law and protection of St. Peter, giving them the right to appeal to Rome against the tyranny of the Order.

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[91] Lites, Vol. I Part II, p. 108.

Thus at least, *de jure*, the popes made some attempt to preserve the liberty and freedom of these people. *De facto* however, their appeals met with little or no result because it was hardly possible for Prussians, to win a case of complaint at the papal court.[92]

The teachings of Thomas Aquinas (d. 1274) which insisted upon freedom and liberty for all non-believers, were completely opposed to any violation of the rights of non-Christians. Aquinas was quite clear regarding the rights of non-Christians and upon the voluntary nature of valid conversion. He was the main authority for the Polish delegation at the Council of Constance. In speaking about this very matter before the Council in general session, Andrew Laskarz, bishop of Poznań quoted him saying that it was contrary to the nature of the will's own act, that it should be subject to compulsion or violence.[94] Hostiensis (Henricus de Segusia Cardinalis Ostiensis d. 1271), held that with the coming of Christ, all authority, jurisdiction and property rights passed from the infidels to the Christians, leaving them without rights. The

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[92] Bełch, *Vladimiri*, Vol. I, p. 79.

[93] See, St. Thomas Aquinas, *De Fide*, Art 2, quaestio 2, in: Anton C. Pegis, *Basic Writings of St. Thomas Aquinas*, (New York, 1953), Vol. II, p. 422.

[94] Mansi, *Sacrorum conciliorum nova et amplissima collectio*, Vol. XXVIII, p. 520.

Dominicans supported Hostiensis' theory, especially the manner it was put into effect by the Teutonic Order.[95]

William of Occam (d. 1347), whose thinking influenced the Poles, insisted that infidel states were true states, and that infidels had a natural right to choose their own rulers.[96] He insisted that it was a fundamental freedom of man to choose and oppoint the temporal authority which governed him. Nobody, he said, should be placed over the community except by its choice and consent, every people and state are entitled to elect its head.[97]

One fourteenth century canonist who also defended the rights of non-Christians was Petrus de Ancharano (d. 1416), an important authority for Paweł Włodkowic. Ancharano tended, however, to grant universal political authority to the emperor, and sanctioned the temporal use of papal authority in order to support political absolutism.[98]

In the period of the Bablonian Captivity, and during the Great Schism, new doctrinal influences began to penetrate political philosophy. Revived neo-platonism with its theories of submission and notions of emanations, led to the acceptance of the coercive state.[99] It is interesting to note that representative of the Teutonic Order at the Council of Constance began his speech by referring to Plato's doctrine on the purpose of the Politica Regimina.[100] Influenced by such notions, the Knights abandoned the idea of service to the oppressed, and became champions of oppression, achieving order through compulsion.[101] Their crusades degenerated into expeditions of conquest, in which all mercy and benevolence toward the enemy were thrown aside. The cruelty to which the Order degenerated is particularly evident in its capture of the city of Danzig.[102] The Teutonic Knights soon aimed their tendency to destruction and extermination at the Poles and Lithuanians. It was because of such activities by the Knights that the King of Poland protested at the Council of Constance. Speaking for his king, Paweł Włodkowic at a general session said:

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[95] Thomas Gilby, Between Community and Society (London, 1953), p. 70.

[96] Frederick Copleston, A History of Philosophy (New York, 1963), Vol. III, Part I, p. 130.

[97] William of Occam, Opera Omnia Politica, ed. J.O. Sikes (Manchester, 1940), Vol. I, p. 246.

[98] Bełch, Vladimiri, Vol. I, p. 130.

> In their attempt to destroy our kingdom, and exterminate our leaders no cruelty was spared by the Knights of the Cross in their attack upon the Poles. Their cruelty is such that all can see there is little piety, sanctity or holiness in them. Their only good was to conquer and lay claim to new lands.[103]

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[99] Gilby, Between Community and Society, p. 34.

[100] Finke, Acta, Vol. II, p. 391.

[101] Henri Pirenne, Histoire de l'Europe des invasions au XVIe siecle (London, 1939), p. 476.

[102] Szymon Askenazy, Dantzig and Poland, trans by W. Rose (London, 1929), p. 8.

[103] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 1120.

The conscience of western Europe had become blind to permit the Teutonic Order to carry out such atrocities, and to practice evangelization by conquest, compulsion and extermination. But further, their crimes became sport.[104]

In a position to observe and compare the attitude and behavior of the pagans and Knights, the Poles soon concluded which of the two were more ruthless and cruel. They called the Teutonic Knights, "barbarians wearing a black cross on a white cloak."[105] In view of this situation, and to protect themselves against a common enemy, Poland and Lithuania which from time to time had warred against one another, entered into an alliance against the common enemy, the Teutonic Knights. Ladislas Łokietek, King of Poland and Gedymin the Grand Duke of Lithuania, formed an alliance against the enemy, which involved the conversion of Gedymin to Christianity. The marriage of Casimir the son of the Polish King, with Aldona, Gedymin's daughter in 1325, added to the atmosphere of friendship already created by the alliance. Thus through peaceful measures, attempts were made at the conversion of Lithuania. And indeed, as A. Bruce Boswell points out, the Poles of that time were great apostles of the Christian religion, using peaceful means to convert the unbelievers.[106] To prepare priests for this purpose, King Casimir III, the Great in 1364, founded a University in Cracow whose graduates, doctors and students were to work for the conversion of the unbelieving heathens, and schismatics beyond the border of the Kingdom.[107] As for Lithuania, its conversion was further implemented by the marriage of Jadwiga of Poland with Duke Jagiello of Lithuania, who at that time was converted to Christianity together with his whole country. The marriage took place in 1386 and united Poland with Lithuania, making Poland one of the most powerful states in Central Europe.

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[104] The Teutonic Knights, on the pretext that Lithuanians were pagans, had waged against them a war of extermination. It was now evident, however, that these Barbarians were not obstinately attached to their cult. But it was more profitable and extraordinarily though the use of such words may seem, more enjoyable to hunt them, for the Order organized veritable manhunts in its persecution of these people. The fame of these hunts had spread throughout the Empire, and the princes and lords of the West assembled, as people now assemble at the Olympic Games to take part in these expeditions. Pirenne, Histoire de L'Europe des invasions au XVIe siecle, p. 476.

[105] Ioannes of Czarnkow, Chronica Polonorum, MPH, Vol. II, p. 620.

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[106] Cambridge Medieval History, Vol. VIII, Ch. 18, planned by J.B. Bury, ed. H.M. Gwatkin, et al. (Cambridge, 1911-1936), p. 568.

[107] Morawski, Histoire de L'Universitè de Cracovie, Vol. I, p.121.

In such an atmosphere which was tolerant and benevolent, persecuted groups from many parts of Europe found refuge in Poland. From the fifteenth century, for example, the Hussites found refuge in Poland. There the Jews who were persecuted in the West found freedom and legal protection. In Poland they could enjoy secure and permanent homes. As early as 1264, Boleslaus the Pious, conferred upon Jews in the community of Poznań and that of Kalisz, these privileges known as the Statute of Kalisz. In 1334, by the Statute of Wiślica, King Casimir III, extended the privileges to all Jews of the nation. From that time, it became known as the Jewish Statute becoming part of the Volumina Legum, the official collection of laws binding Poland. The Statute was confirmed again in 1507 under King Sigismund I. The last King of Poland, Stanislas II, Poniatowski confirmed it finally in 1765.[108] Immigrants of other religions and nationalities received the same protection in Poland, where they settled in compact communities, receiving legal guarantees of religious freedom and liberty.

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[108] Lednicki Life and Culture of Poland, (p. 46.

When Casimir III became the ruler of Ruthenia, he began to restore the Orthodox Church as the religion of the country laid waste by the Tartars. He guaranteed the Ruthenians respect for their rite and customs, even though in 1325, a little earlier, Pope John XXII (1316-1334) had asked the Poles to crusade against them.[109] These notions of the Poles were motivated by the respect of the Polish nation for the rights and customs of others as the basis of religious tolerance. Such an approach showed good results for at the Council of Constance, the schismatic hierarchy of Poland and Lithuania sought union with Rome.[110] At that time also, the barons, princes and nobles of Podolia asked Ladislaus the King and all prelates, princes and barons of the Kingdom of Poland that all rights and prerogatives be extended to them which the Poles enjoyed.[111] When attempts at reunion failed the Polish schismatics at their own request were thus made equal in law with Catholics.

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[109] Bełch, *Vladimiri*, Vol. I, p. 97.

[110] Hardt, *Constantiense Concilium*, Vol. IV, p. 548.

[111] Długosz, *Historiae Polonicae*, Vol. II, Bk. XI, p. 520.

In sharp contrast with these Polish methods of conversion was the policy of the Teutonic Order which was set forth in several letters circulated among European rulers and popes. In these letters, the theory and practice followed by the Order were presented to convince European public opinion concerning the legitimacy of its stand. The reasons given were obviously those that would appeal to the European conscience and so give an indication of the current attitude in these matters.

The circular of 1401 spoke of the innate evil of the barbarian peoples and the impossibility of any change on their part. The only thing that remained for Christians was to war against them and exterminate them.[112] In the letter of 1403, the Grand Master of the Order said that the Order was the defender and the representative of the whole of Christendom in northern Europe, and that the Lithuanians, in spite of their supposed conversion, were in fact infidels. He said that the King of Poland in defending them was defending infidels and schismatics, and that he should therefore be excluded from Christian society. Moreover, the King of Poland was tolerating a heathen cult. He said that the churches which the Order had demolished in Lithuania were really not churches but huts. Finally, the Order claimed that it was instituted for the purpose of attacking any enemies of the Cross, exterminating them by force, and taking from them their dominions and lands for its own use.[113]

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[112] Lites, Działyński, Vol. I, p. 187.

At the twenty first general session of the Council, the assembly was occupied with a letter which the King of Poland Ladislas II had sent on July 5, 1415. The letter urged that pagans should not be forced to accept Christianity by force of arms and urged that the pope condemn the errors of the Teutonic Knights.[114] Because of Jagiello's appeal, the Poles were denounced by numerous writers from all religious orders, especially the Dominicans, by the secular clergy, canonists as well as theologians, all of whom denied that infidels had any rights except those granted by the emperor. Later treatises which were written against the Polish pleas were characterized by complete disregard for the unbelievers as persons, and by a destructive attitude toward them.[115] They express the idea that infidels were brutes who should be attacked and exterminated. One of these writers, John Falkenberg, even went so far as to demand that Poland should be destroyed for having defended the infidels.

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[113] Ibid., p. 149.

[114] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 46.

On November 28, 1415, while the Poles were defending the rights of infidels, a delegation of Lithuanians arrived at Constance to plead before the Council for a recognition of human rights. These new converts were a living confirmation of the apostolic work of the Poles and their success in the peaceful conversion of pagans. A few weeks later, on December 3, 1415, bishop Laskarz again spoke to the Council of the rights of infidels. His address was especially directed to those who had narrowed the concept of Christendom to exclude everything outside western Europe, to men who regarded everything outside the immediate Christian community as foreign and hostile, to be fought and eliminated, to those who had no idea of treating non-Christians as equals. Laskarz reminded these delegates that God does not limit his attention to that small section of humanity which lives in Europe, but that He embraces the whole world. The heathen, he said, could not be attracted to the faith by force and fraud. Such attempts, he said, only evoked resistance on their part. They should be treated fairly, kindly, honestly and above all with charity. The King of Poland and the Grand Duke of Lithuania had tried to follow that method.[116] Speaking a short time later, Archbishop Trąba in the same spirit said:

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[115] Bełch, Vladimiri, Vol. I, p. 86.

> Our King has been guided only by peaceful and charitable motives in the conversion of non-believers, following the peaceful and moderate admonitions of Gregory VII. However, such magnanimity cannot be attributed to all who seek the conversion of non-believers. Cupidity and avarice lead some. The binds which hold together peaceful peoples have been torn, and unjust wars have begun.[117]

Trąba admitted that there were schismatics in Poland and Lithuania. But this did not mean that the king was accepting the un-orthodox. It simply indicated that the schismatics were being treated as human beings.

The Council, however, was unable to decide the issue of the rights of infidel peoples. Just as Urban VI, Boniface IX and Innocent VII had ordered the Teutonic Order to stop military expeditions against an already Christianized Lithuania without any effect, so now Pope Martin V was afraid to decide the issue lest he cause a revival of the Western Schism. He adopted then a compromise position, he appointed the King of Poland and the Grand Duke of Lithuania to be the Holy See'S vicar general, "in temporalibus" over the northern territories.

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[116] Finke, Acta, Vol. IV, p. 241.

[117] Mansi, Constantiense Concilium, Vol. XXVII, p. 519.

CHAPTER III

THE POLISH DEFENSE OF EQUALITY OF INFIDEL RIGHT AND RIGHT OF POSSESSION

The enemies of the Polish delegation at the Council of Constance, by refuting what they considered to be the, "Polish heresy," revealed for all to behold, their own doctrines and attitudes toward infidels and infidel rights. John Vrebach of Bamberg, for example, summarized the position of Paweł Włodkowic as follows: The infidels should be protected by the pope, they have dominions, jurisdictions and possessions *de jure* so that it is forbidden to take them away by any authority, papal or imperial.[1] That warfare conducted by the Teutonic Order against the infidels is unlawful and a violation of right. Vrebach claimed that these assertions diminished the rights, privileges and power of the Church, of the Empire and of Catholics, and favored the rights of non-believers.[2]

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[1] Ioannis Vrebach de Bamberga, *Tractatus*, in Stanisław Bełch, *Paulus Vladimiri*, (The Hague, 1965), Vol. II, p. 1120.

[2] *Ibid.*, p. 1122.

Ardicinius of Novaria, another opponent of the Poles, was not too concerned about the Polish defense of infidel rights as he was about their, "arrogance," which led them (the Poles), "in opposition to the teachings of the Appostles," to deny the right to pope or emperor to dispose of infidel possessions.[3]

John Falkenberg accused the Poles of defending heathens and schismatics, and opposing the position of the Teutonic Order, which held that infidel peoples could not have true states. Thus, as for the Samogitians, they had always been infidels, enemies of the faith and, therefore, had no rights. It was lawful that their possessions be confiscated and their land be taken.[4]

The fact is, then that at the Council of Constance two opposing views were set forth concerning infidels and their rights. The debate between advocates of the Polish position and their opponents would determine which view would be accepted by Christendom. John Vrebach and Jŏĥn Falkenberg asserted that the infidels possessed unjustly and that not recognizing the Church, its authority and that of the empire, they lost all jurisdiction, dominion and sovereignty. the Poles, however, maintained that infidels did possess dominions, jurisdictions and sovereignty as well as property by natural right.[5]

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[3] Ardicini de Novaria, Tractatus, in Bełch, Vladimiri, Vol. II, p. 1195.

[4] Paweł Włodkowic, Scriptum Denunciatorum Errorum Satirae Joannis Falkenberg, in Bełch, Vladimiri, Vol. II, p. 1025.

Vrebach and Falkenberg derived their opinions chiefly from the theories of Hostiensis (Henricus de Segusia Cardinalis Ostiensis, d. 1271), who believed that infidels who did not recognize or obey the power and authority of the Church were not fit to have kingdoms, states, governments, dominions or jurisdiction.[6] To refute these doctrines, the Poles drew upon more contemporary authors, among others Petrus of Anchorano (d. 1416), and Innocent IV. Petrus of Anchorano, a delegate to the Council of Pisa, publicly declared that infidels legitimately possessed kingdoms, and he defended their right to such jurisdiction.[7] In this respect, he voiced the sentiments of Innocent IV, who also recognized infidel kingdoms as lawful. Innocent IV, by chance, failed to mention the condition of recognizing the Church, which Hostiensis later raised. Ioannes Andreae, (d. 1348) an outstanding decretalist of the fourteenth century, repeated the opinions of Innocent IV, but said that the theories of Hostiensis could be accepted in a modified form, namely, the matter of submission to the Roman Church, It is not certain whether Joannes Andreae was in full agreement with Hostiensis, but Paweł Włodkowic understood and interpreted him to be, as did John Vrebach.[8] Włodkowic did point out, however, that Andreae recognized a type of infidel jurisdiction, as did Innocent IV, and that this jurisdiction did not come from the Church. So it would apear that Andreae was less than consistent in his views on this subject.[9] The opinion of Hostiensis was accepted by Oldradus of Ponte, who declared at Constance that, "the opinion of Hostiensis seems to be truer." [10] Oldradus also maintained that infidels were incapable of jurisdiction, and dominion and further claimed that infidels were nothing but slaves. Although Vrebach used the writings of Oldradus in support of his own arguments, the Poles were also able to find in his writings some statements which could be used in defense of their own thesis.[11]

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[5] Włodkowic, *Scriptum*, I, in Bełch, *Vladimiri*, Vol. II, p. 998.

[6] Włodkowic, *Opinio Hostiensis*, in Bełch, *Vladimiri*, Vol. II, p. 866.

[7] Gian Domenico Mansi, *Sacrorum Conciliorum nova et amplissima* collectio, Vol. XXVII, p. 426.

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[8] Włodkowic, *De Potestate Papae et Imperatoris Respectu* Infidelium, in Bełch, *Vladimiri*, Vol. II, p. 820.

[9] *Ibid*., p. 787.

[10] Hardt, *Constantiense Concilium*, Vol. IV., p. 1287.

That all the opponents of the Polish position had great contempt for the infidels is particularly apparent. John Vrebach, for example referred to them as beasts, and slaves of Christians.[12]

Besides the matter and attitude of contempt for infidels, the Poles also had to deal with the question of their forceful conversion. The opinion that infidels had no rights to possess, and that wars waged against them were always legitimate went hand in hand. This position was strongly held by the Teutonic Order, and at the Council of Constance in 1416, openly declared in a speech addressed to, "the cardinals, archbishops, bishops and ambassadors of kings, princes and universities, and to learned doctors." Before the entire assembly, the spokesman for the Order spoke of, "the past," when all Christian nations shed blood in wars against the infidels, and how the, "French, English, Spanish, Scots and Germans," assisted them in their wars. As a result, he said, Prussia which was once inhabited by wild beasts and covered with superstitious religion, came to worship the one, true God and, "became the possession of Jesus Christ." In Prussia he went on to say, Christian knights merited glory, fighting against the savage pagans. In this way, he said, the Order became an instrument of God and the Empire.[13] The Poles hoped to combat this attitude and frame of mind toward the infidels, marked by hostility and contempt, which tried to make the greatest distinction between believers and non-believers. They looked for sound principles of theology and philosophy which would assist them, and in the process, were moved by sympathy and compassion for the pagan peoples.

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[11] For Włodkowic's summary of Oldradus' opinion, see De Potestate, in Bełch, Vladimiri, Vol. II. p. 833.

[12] Vrebach, Tractatus, Bełch Vladimiri, Vol. II, p. 1119.

A. Equality of Rights between Christians and Infidels.

The Poles approached the question of infidel rights logically and rationally, never losing sight of realities. Their aim in this controversy was to find the proper relation between abstract, philosophico-theological ideas, universal legal and moral standards and the existing facts. Moreover, it was a strategy of the Poles to raise the level of the debate to the area of philosophical and theological speculation, in order that it might have greater appeal to the Council Fathers. Archbishop Trąba and Peter Bolesta were forces in the delegation which tended to examine the disputed questions in more concrete terms, that is , from canonical arguments. Paweł Włodkowic took the more elaborate, scholarly, metaphysical approach, whereas Andrew Laskarz examined the problems from a theolotical point of view. Aothough Archbishop Trąba, Andrew Laskarz, Paweł Włodkowic and Peter Bolesta cited all of these authorities, each tended to rely more heavily on certain of them. Włodkowic, for example, in his defense of the infidels drew support from the works of Aristotle, his *Physics* and *Ethics*. He also relied heavily on Augustine's *City of* God, and the *Summa Theologica* of Alexander of Hales and that of Thomas Aquinas. Andrew Laskarz, who was a fine theologian used references from Sacred Scripture, particularly from Exodus, St. Matthew, St. Paul to the Romans and Epistle I of St. Peter. Archbishop Trąba and Peter Bolesta, while referring to these and similar authorities, relied extensively upon canon law, the *Decretum Gratiani* and the *Decretals* of Gregory IX.

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[13] Mansi, *Sacrorum Conciliorum*, Vol. XXVIII, p. 787.

In dealing with the question of equality of rights between Christians and infidels, the Poles defended the infidels as, "those who did not have the faith of Christ."[14] The intention of the Polish delegation was to show that the imperial and papal claims to authority over them were unlawful. In a matter concerning infidel rights, the Poles attacked the Teutonic Order because they blamed the Order for violating these rights or inciting violations of them.

The first point at issue then, was whether or not the infidel nations had sovereign rights. In this matter, the Poles, especially Paweł Włodkowic relied on natural law doctrines, following strictly St. Thomas Aquinas. The right of infidel peoples to form sovereign states, Włodkowic maintained, rested on the fact thatthey were human beings and thus their rights should be respected by Christians. What, in fact, Włodkowic had done was to lay the argument of equality upon the foundation of natural simulitude of all men. He insisted that the doctrine of equal rights and mutual obligation was based and founded on the natural equality of all men as men.[15] This equality, he said, was known by natural reasoning, and the law demanding it and enforcing it was the natural law.[16] Concerning the equality of men, and the natural law W/odkowic said:

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[14] Mansi, Sacrorum Consiliorum, Vol. XXVIII, p. 78.

> In the order of things, the multitude is composed of a diversity of species and kinds. With regard to men, however, the same order for all results because of the identity of the end to which they are ordained. Thus, although in outward respect to one another they have diverse, particular nations and variences, yet in an ultimate, final sense, they are all the same and all are one due to the identity and oneness of their end. And they can be regarded as having the same nature, for again they all have the same end. This end, considered as the first mover is called the beginning, when it effects the motion, it is called the cause, and since it imposes the limit on all particular agents acting for their own sake, it is called the measure, as if measuring the motion of those agents. So, then, the end is the first and last in anything. It is called the most potent cause since all means are for it.[17]

After the metaphysical consideration of Pawe/ W/odkowic on the similitude of all men as determined by the identity of their end, Andrew Laskarz attempted to prove this assertion through the authority of Sacred Scripture. Laskarz began his discussion by considering the scriptural censure, "you keep the ungodly, and thus are joined in friendship with them that hate the Lord." This censure, Laskarz proposed, did not apply to friendship, as such, but only to supporting non-believers in what was unjust, injurious and evil. What Christians were forbidden to do, he said, was to join with them in their failure to obey God, and in their wickedness. From this consideration, Laskarz inferred that friendship with the infidels was not forbidden.[18] He then referred to a text in Sacred Scripture that supported his position, "every beast loveth its like." This, of course, was in keeping with the argument of similitude given by Włodkowic, and was only its theological and scriptural extension.[19]

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[15] W/odkowic, De Potestate, Be/ch, Vladimiri, Vol. II, p. 801.

[16] Ibid., p. 803.

[17] Ibid., p. 833.

With the theme of love based on similitude set by Laskarz, Archbishop Trąba offered a penetrating interpretation of the relation between love and the doctrine of similitude based on Aristotelian and Thomistic social theory. The intrinsic reason for love, Trąba asserted is likeness, similitudo. In this respect, Aristotle mainteined that, "the cause of friendship and love is similitude." Trąba , however, followed St. Thomas' commentary on this principle which was in full agreement with Aristotle. The archbishop quoted Thomas as saying:

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[18] Mansi, Sacrorum Conciliorum, Vol. XXVII, p. 1126.

[19] *Ibid*., p. 1127.

> It is similitude that is the cause of love and friendship and well-wishing. For the very fact that two men are alike, having, as it were one form, makes them to be one in manner. The affections of one tend to the other, as being one with him, and he wishes good to him as to himself.[20]

From similitude then, Trąba said, comes natural friendship and love. But he sent on to declare the from friendship and love stems justice. The three: friendship, love and justice, are closely related, for where there is similitude, there is love and friendship and where there is love and friendship, there is also justice. Thus Trąba said, the relation between Christians and non-Christians should exhibit justice for justice is drawn ultimately from natural similitude which renders it impossible to distinguish between believers and non-believers. consequently, unbelief or paganism does not in any way effect the natural obligation of justice binding every man without exception. Nor is the virtue of friendship, effected by belief or unbelief or paganism, for friendship, said Trąba, based on similitude, is simply communicable, and of necessity directed toward another.[21]

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[20] Ibid., p. 788.

Anticipating an objection from those who believe there was a difference between Christians and infidels based on the supernatural virtues, Trąba pointed out that one must distinguish between virtue in the theological sense and virtue in the ordinary or natural sense. Men who have not received the infused virtues may possess virtues which are natural, such was the case with infidels.[22] Trąba in this way, emphasized and affirmed the fact that true friendship which exists between virtuous men, and is based on honesty and goodness, and may exist between Christians and infidels. And as Trąba further pointed out, Aristotle taught that moral and natural virtues, such as friendship and justice are acquired by habit, but lack of belief is not inconsistent with habit and therefore with natural virtue. Trąba concluded that infidels can be virtuous in the Aristotelian sense of the term, and it therefore followed that since infidels were capable of moral qualities needed for social and political life, and since they may hafe a sense of duty, they were, as a result, capable of managing and controlling their own political affairs.[23] The infidels, therefore, are not inwardly evil, they should not be killed like wild animals, for the sole reason that they are not Christian, as if they were criminals who deserved to be annihilated.

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[21] *Ibid.*, p.789.

[22] *Ibid.*, p. 790.

Defending the moral innocence of the infidels, Trąba said that in many instances, they cannot be held responsible even they they have committed criminal deeds, which they often do not know to be criminal.[24] Trąba further asserted that violations of the right of state, be it a Christian or pagan state, is contrary to natural equity because it is contrary to natural law. Such action, he said, was also in violation of divine law, which forbids rapacity. All treaties and agreements ratifying such action are likewise contrary to natural and divine law. In addition, Peter Bolesta pointed out that canon and civil law, both prohibited whatever was seriously prejudicial to a state, especially any action which endangered its existence or security. In general, he said, canon law forbids the encroachment of one at the expense of another, while civil law forbids the imposition on another of any evil condition.[25]

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[23] _Ibid_., p. 1116.

[24] _Ibid_., p. 1117.

The Poles, then, based their arguments in defending infidel rights, on natural law, which bestowed its rights on all men; on canon law which demanded respect for all; and divine law, which demanded respect for all men becaus of their similar nature.

John Falkenberg offered at this point a quotation from St. Augustine which seemed to weaken the Polish position. Augustine said, "The whole life of infidels is sinful, and their actions cannot be regarded as good if they are done without God, the eternal truth. In consequence even behavior that is in accord with morality is not virtuous." To resolve this difficulty, Włodkowic turned to Gratian who held that unbelievers were capable of possessing virtues which are effective in political life, but ineffectual for eternal salvation.[26] Włodkowic likewise declared that because infidels had the same nature as Christians, the precept of divine law, "love thy neighbor as thyself," held valid toward non-Christians as well as to Christians,"for," he said," our neighbors are believers and non-believers without distinction."[27] Włodkowic applied the formulas of Christianity concerning human relations hoping to establish certain norms of justice in regulating the inter-actions of men; the function of the state within itself; as well as the relation of separate states with one another. The faith, Włodkowic pointed out, explains the precept of love of neighbor in the following way:

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[25] _Ibid_., p. 787.

> We love our neighbors as ourselves when we love them not on account of some usefulness, not because of benefits hoped for or already received, not because of affinity or kinship, but only because they are of the same nature as we are.[28]

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[26] Wołodkowic, *Articuli Contra Cruciferos De Prussia*, Bełch, *Vladimiri*, Vol. II, p. 919.

[27] Włodkowic, *De Potestate*, Bełch, *Vladimiri*, Voll II, p. 829.

[28] *Ibid.*, p. 830.

Commenting on this passage, Włodkowic said, "Jews and Saracens and all non-believers are our neighbors, and we should therefore love them as ourselves, that is, wishing them the same as we wish ourselves." [29]

B. The Right of Infidels to Possess Material Goods.

The Poles believed that just as the equality of right between Christians and non-Christians sprang from natural law, so also did the right to possess material goods. This privilege, they insisted, did not come from Christianity, but from the law of nature. Man had title to possess because he was a man, and all men could lay claim to titles guaranteed by natural law. Being men, created by God, as are Christians infidels have the same rights as Christians to possess material goods. "Nature, " Andrew Laskarz said, "does not distribute or apportion goods, dominions, kingdoms or jurisdiction to any one in particular." The legal basis upon which the rights of infidels to possessions rests, therefore, is the same as that of Christians, the "law ot nations," which Laskarz defined as natural law manifesting itself in regard to nations.[30]

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[29] Ibid., p. 831.

[30] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 788.

It is the law of nations, Laskarz said, that safeguards possessions and dominions, and prohibits taking or occupying property belonging to others. In defeinding the legal title of the Lithuanians and Samogitians, for example, against the claims of the Teutonic Order, Laskarz said, "these pagans possess justly by the natural law of nations, thus their possessions cannot be legally seized by anyone."[31] The law of nations he said, as an aspect of natural law, is obliging as natural law. This law is so fundamental that it cannot be abrogated or countermanded by any ordinance or custom. Wars are contrary to the law of nations because this law is an expression of natural law which prohibits theft.

In his discussion of this topic, Paweł Włodkowic spoke strongly saying:

> The above mentioned Friars...wanting to occupy the whole dukedom of Lithuania, and other dominions of the above-mentioned princes by violence and notwithstanding the fact that the infidels, that is pagan nations not having the faith of Christ, own their goods justly and by natural law, and that they should not be forced to accept the Catholic faith by arms or by force, or by violence. The Prussian Friars nevertheless, made the pretext that these infidels possessed their lands unjustly ...carrying out this pretence in order to find some excuse and justification for their unlawful behavior, invaded...the dominions under the pretext of spreading and increasing the Catholic faith there by force of arms, following a sort of usage

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[31] *Ibid.*, p. 1027.

> law, rule or custom, which obviously cannot be regarded as lawful, by which it was held that this should be done...at least twice a year. And they, cruely and inhumanly harassed these people, who, though at that time were infidels but, nevertheless, are our neighbors since they have the same nature as we have, and who at that time were living peaceably in their own dominions, killed and murdered them, and oppressed them in other ways with inhuman cruelty both with regard to their persons and their possessions, all under the cloak of piety, and the pretence of spreading the Catholic faith. All this is against the commandments of Christ and the law of nations, and is in consequence gravely detrimental to the Christian religion and faith.[32]

Here Paweł Włodkowic indicated, as did Laskarz, that the legal basis of the right to possess is the same for infidels and Christians, that is natural law, expressing itself in the law of nations.

Archbishop Trąba pointed out that the law of nations, common to all nations, had two characteristics. First of all, it was distributive, that is, it was concerned with the distribution of goods among men. Second, it was regulative, that is it was concerned with procuring justice in securing and maintaining such goods. Application of these tenets, however, to the matter at hand was left to Włodkowic who relied in doing so on the writings of Thomas Aquinas and Innocent IV. The question of regulation and distribution of material goods he pointed out, involved private property. And as Włodkowic saw it, all creation, as subject to man, was thus his potential possession., irrespective of his moral or religious goodness.[33] Man himself, he pointed out, developed the practice of private ownership. Later there followed territorial possessions, that is, dominions, and kingdoms.[34] As Włodkowic explained it, at the beginning of human history, it was permissible for men to occupy and claim any portion of the earth. What was once occupied by one man could not later be seized by another.[35] Papal authorization for usurpation was invalid, while any extension of imperial authority could be achieved only by violence or tyranny. Consequently, infidel possessions were not the pope's, nor the emperor's, nor could they be.[36]

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[32] Włodkowic, *Articuli contra Cruciferos*, Bełch, *Vladimiri*, Vol. II, p. 945.

As an extension of the point presented by Włodkowic concerning the terms established at the beginning of human history, Archbishop Trąba held with regard to the right of one man over another man, or the right of one to exercise authority over another, that by nature all men are equal, and at the dawn of history, no man was subject to any other man. He believed that the regulative expression of the law of nations, that is authority over other men, sprang from the authority of the father over his family which in turn, he said, was an expression of natural law.[37] It is important to note that Archbishop Trąba did not give to Christianity or to religion, as such, the right to rule, nor did he claim that authority sprang from religion. In Trąba's argument the importance of the natural law is paramount. The Poles maintained, then, that infidels had an equal right with Christians to occupy territories, to enjoy possessions, and exercise authority. Because of this right, based on natural law, no one could deprive them of their lands or material possessions.

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[33] Włodkowic, *De Potestate*, Bełch, *Vladimiri*, Vol. II, p. 825.

[34] Włodkowic, *Scriptum*, Bełch, *Vladimiri*, Vol. II, p. 997.

[35] *Ibid*., p. 996.

[36] Lenfent, *Histoire de Concile de Constance*, Bk. III, p. 237.

Having examined the question of infidel rights with regard to possession of material goods, the Poles hoped to show that any violation of these rights was equivalent to rapacity. If the possessions held by infidels are held lawfully, according to natural and divine law, then neither the pope, whom the infidels do not recognize as their spiritual authority, nor the emperor whom the infidels do not recognize as their temporal authority can dispose of such possessions. Anyone who confiscates or plunders infidel possessions deserves punishment for they have committed a crime against natural law. The punishment should be inflicted according to the requirements of natural law, that is, by judicial process.[38] It was not natural law alone that expressly censured stealing or the inflicting of damage upon another. Canon law and divine law had similar censures. What the Poles storve to make clear was that in the Christian's relationship with the infidel there was the need for the Christian to recognize and respect the dignity of all men and their natural and God given rights. The Christian's basic attitude, they claimed, should always be one of respect, love and peace. The confiscation of infidel lands under the pretext of extending the faith could not, therefore, be tolerated.[39] Any bulls, decrees or grants of concession by pope or emperor were, therefore, invalid. It logically followed that the motive of colonization, or the desire of Christians to extend their possessions at the expense of infidels did not constitute legal title. The general rule then in these matters as held by the Polish delegation was that infidels were in possession of their goods and territories in accordance with natural law. No power on earth, for any cause had the right to take away these possessions. As for the problem of the emperor's or pope's authority over infidels and their belongings, this could be reduced to one point: there must be some adequate cause in accord with natural law before the infidels could lose their natural right to jurisdiction, and before the pope or emperor could meddle with their jurisdiction. The basic argument, therefore, of legal title used by the Poles in defending the right of infidels to national independence, and freedom from the jurisdiction of Christian states, was that infidels as human beings, are entitled to the rights guaranteed by natural law. Since the existence of independent states and private possession is an expression of that law, infidel sovereignty is legitimate and must be respected.[40] Finally, the argument used by Peter Bolesta in defense of the rights of infidels was taken from St. Thomas Aquinas' discussion of natural law. He quotes Aquinas as saying:

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[37] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 985.

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[38] Finke, Acta, Vol. III, p. 886.

[39] Lenfent, Histoire du Concile de Constance, Bk. III, p. 268.

> Domination and authority are institutions of human law (Law of nations or natural law), while the distinction between faithful and unbelievers arises from divine law. Now the divine law...does not do away with human law which is the law of natural reason.[41]

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[40] Hardt, Concilium Constantiense, Vol. IV, p. 992.

[41] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 986.

From this statement, Bolesta logically concluded that if the two laws do not exclude the other, then unbelief was not inconsistent with dominion. Continuing to quote Aquinas, he said:

> For, says blessed Thomas, unbelief is not inconsistent with dominion, because dominion is a device of the law of nations which is a human law...proceeding from natural reason.[42]

Belief is not consistent then with dominion, nor the possession of material goods. Sovereignty was not the exclusive right of Christians, but rather the right of all men as men. The two orders, as the Poles saw them, the natural, represented by divine law, supported and did not work against each other. In certain areas, each had the same end, and complamented the other.

In spite of these arguments presented by the Poles denying universal papal and imperial dominion, Vrebach put forth the argument which claimed that, "the emperor possesses, of right, the same imperial authority over infidels as he possesses over Christians, especially regarding the use and exercise of material goods. Sovereignty was not the exclusive right of Christians, but rather the right of all men as men.

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[42] Ibid., p. 986.

The point he insisted upon was that all infidels should be subject to the emperor in temporal things, and that he could dispose of their belongings as he saw fit. The Poles refuted Vrebach, personally in this regard by advancing again the basic argument that sovereignty and the right to possess material goods was not exclusively the right of Christians as Christians, but of all men as men by natural law. Thus the absurdity of doctrines depriving infidels of fundamental human rights was set forth. More especially Maurice of Prague, in support of the Poles, said that the doctrine claiming that infidels had no right to material goods, that is, temporals, denies them of temporal life. Whereas, he said, the doctrine denying them political authority leads to disorder, because by such doctrines, Christians living in infidel states could withhold allegiance to their infidel superiors. Such a situation obviously threatens social order.[43] Włodkowic also also pointed out that by commanding the Jews to pay taxes, Christ determined the opposite, and taught that recognition of infidel dominion could be wholesome, since in this instance Caesar certainly did not recognize any obedience to the early Church.[44]

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[43] J.C. Hefele and Leclercq, Histoire des Concils, p. 223.

[44] Włodkowic, Scriptum, Bełch, Vladimiri, Vol. II, p. 995.

Maurice of Prague added that the Apostles also taught that recognition of infidel authority was acceptable. Paul, for example, appealed to Caesar, an act which would have been unlawful unless Caesar held authority legitimately. In this instance, Maurice pointed out, Paul recognized the jurisdiction of Caesar who was an infidel and did not recognize the domination of the Church. St. Peter, he pointed out, asked the faithful to recognize and honor infidel kings and princes as their own (I Peter, II, 13-14), Finally, St. Paul asked the faithful to pray for all men in high places that their subjects might lead a quiet and peaceful life, (I Timothy, II, 2-4). "At the same time," Maurice asserted in the same matter, "there were no kings and princes except infidels, adknowledging the dominion of the Church, yet the Apostles were admitting that their kingdoms, dominions and authority were legitimate and lawful." Now, Maurice said, if in apostolic times such recognition was acceptable then it is acceptable in our times as well.[45]

This argument is essentially theological since Maurice and all intellectuals of the Middle Ages accepted Revelation as an illuminating and guiding factor in human reason. To such men, the Fathers of the Church and particularly Sacred Scripture were an accepted, guiding source of truth, a ready source of instructing formulas.

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[45] Finke, Acta, Vol. III, p. 549.

In supporting the inviolability of infidels to possess, the Polish delegation in its criticism of papal and imperial policy was sharp and rigorous, however, the Poles did not deny that the Empire and papacy were official institutions. What they attacked was the abuse of papal and imperial right for selfish motives at the expense of the right of others.

The Poles devoted much labor to demonstrate the legal inviolability of infidel right to temporal possessions. They condemned as criminal, with strong words, the methods by which such rights of infidels were violated. They saw the Teutonic Order as contriving to destroy the infidel and his rights. Such actions were seen by the Poles as odious and iniquitous. Any encouragement of such a policy would be transferring perference from equity to inequity, and favoring force over justice. All power they felt, should cooperate to oppose such unlawful tendencies. If anyone failed to oppose such evils, he, by his passivity, favored such action and approved those principles upon which the action was based. At the Council of Constance, the Poles demanded in the name of justice, truth and equity that human relations be conducted in accordance with human and divine law for the good of humanity.

CHAPTER IV

THE POLISH DEFENSE OF INFIDEL RIGHT TO TERRITORIAL SECURITY

Among the medieval scholars who attacked the notion that Christians could freely and rightly invade infidel territories was Petrus of Ancherano, whose arguments were used by the Poles at the Council of Constance. Ancherano, for example, taught that to rationalize the invasion of infidel lands by Christians simply because the former did not recognize the Roman Church or the authority of the emperor, was to rationalize stealing and robbery.[1] Essentially, the Poles viewed as erroneous the notions put forth by the Empire and its defenders that possessions of infidels who did not recognize the authority of the Church or the dominion of the Empire belonged to the Empire or at least to nobody.

Concerning the kingdoms not under imperial jurisdiction, the Poles simply stated that they were, "independent,"[2] and could not be legitimately invaded. Neither the pope nor the emperor could dispose of these lands or support their invasion. In face of imperial claims that such territories were, "subject to the Empire, by the ancient and due right of the Empire," the

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[1] *Sacrum Poloniae Millennium*, Stanisław Bełch, "Paulus Vladimiri, Scriptum Denunciatorum," (Romae, 1954), Vol. II, p. 175.

[2] Włodkowic, *Scriptum*, Bełch, *Vladimiri*, Vol. II, p. 997.

Poles held that it was legally improper to dispose of a particular infidel territory upon the basis of pure statement, without giving proof that imperial right properly and actually extended over it.[3] The Poles, therefore, could not approve of the donations to the Teutonic Order of the lands inhabited by Prussians or Lithuanians. They strongly believed that the Council should remove all doubt and declare the truth in this matter, since many erroneously believed that infidel nations had no rights and that Christians could law fully deprive them of their freedom and possessions by war. Archbishop Nicholas Trąba especially argued that such doctrines were erroneous in themselves and dangerous to peace. Indeed, as Trąba asserted, the wars of conversion were simply unjust wars of conquest, masked by pious pretexts and arguments, claiming to make converts to the Christian faith. Still the Knights continued their Crusades even after many pagans had become Christians, and, according to the professed thinking of the Empire and the Order, should have then preserved, maintained or acquired political freedom and independence. The best example of the evil intention of the Order, Andrew Laskarz pointed out, was its attack upon Poland. He asserted that Poland was a Christian kingdom, but the attack was launched because Poland stood in the Order's way of conquest.[4]

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[3] Włodkowic, *Articuli Contra Cruciferos de Prussia*, Bełch, *Vladimiri*, Vol. II, p. 993.

Archbishop Trąba predicted the possible implications and effects of such doctrines upon international policies, for he knew that if such doctrines were accepted by Christian powers, they would result in wars of conquest, massacre and injustice. Because of this terrible doctrine of war, Albert of Cracow urged the Council Fathers," to earnestly insure and give peace to the gentiles and free them from the threat that disturbs them, and the calamities that menace them."[5] Albert went on to say that the rule of action used by western Europe in this respect was that infidel nations had no rights, In consequence, Christians were authorized to conquer infidel territories. In opposition to these tenets of war, Albert said," We have been instructed by our King to seek peace. To this cause we have dedicated ourselves."[6] But he well knew the attitude of much of Europe for he said:

> There are some canonists and doctors who claim that since the coming of Jesus Christ all jurisdiction, principality and territorial dominion has passed from infidels to Christians, and that war and invasion is always permitted against infidels who do not recognize the pope or emperor.[7]

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[5] Mansi, Sacrorum Conciliorum Vol. XXVII, p. 936.

[6] Długosz, Historiae Polonicae, Vol. II, Part V, p. 176.

[7] Hardt, Magnum Oecumenicum Constantiense, Voll III, p. 109.

In answer to these canonists and all who proposed such thinking, Albert said that at heart, the problem touched upon that law by which infidels alone could be judged and by which they should be protected. This law Albert claimed to be the natural law. To infidels, he insisted, were due all rights of independence, sovereignty and possession of land, guaranteed by that law. [8]

This was the very point of view expressed by the Lithuanian and Samogitian delegation which appeared at Constance on November 28, 1415. Although they were converts to Christianity and living confirmation of the peaceful work of conversion carried out by the Poles, they contended that their, " dominions could not be taken from them or their pagan neighbors because they...had a right to them by the natural law of nations...which forbade the confiscation of lands belonging to another.[9] In the same privileges and grants which claimed to deprive them of their lands, however, the Samogitians and Lithuanians found expressions which indicated that their lands were clearly their own. When Pope Alexander IV, for example, donated to the Order all the territories which it had already conquered, and those to be conquered in the future, and made these the property of the Apostolic See, he stated that he made them, "from that time on," the property of St. Peter. As the Samogitians and Lithuanians pointed out, this statement implied that the territories were recognized up to that time as belonging to them and not to the pope.[10]

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[8] Hardt, Constantiense Concilium, Vol. III, p. 110.

[9] Ibid., p. 546.

The Poles felt that lack of direct legislation and pronouncement concerning property rights of unbelievers made it easy for men, tempted by greed and lust for power, to violate the natural rights of infidels. They further asserted that such action, though in violation of the natural law, had become customary, and, to a great extent, recognized by secular and even ecclesiastical authorities. The assertion that infidels could lawfully be subjected by war and reduced to slavery by Christians was considered by the Poles to be philosophically and theologically erroneious.[11] Like the Samogitians and Lithuanians, Nicholas Trąba, Andrew Laskarz and Paweł Włodkowic as well as the entire Polish delegation, questioned the papal and imperial donations of land on the grounds that unbelievers had no right to freedom and property.

> From the beginning of their existence, they were free men...enjoying freedom, possessing property and inheriting it from their fathers, and acquiring it in other ways according to law.

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[10] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 1216.

[11] Włodkowic, Articuli Contra Cruciferos, Bełch, Vladimiri, Vol. II, p. 925.

> They enjoyed these rights quietly and peacefully, in full and perfect liberty and have never been bound to servitude in the slightest degree by any man.[12]

As already mentioned, the Poles held that infidel property was guaranteed by natural law, and that all actions in opposition to these guarantees were contrary to natural and divine law. The remarks by Paweł Włodkowic were expecially directed to the Teutonic Knights, against whom the Lithuanians and Samogitians submitted to the Council an official act of complaint on February 5, 1416.[13] The petition was delivered by the Polish delegation for the Samogitians who on the same occasion told of their plight and of the crimes committed against them by the Order. They invited all to, "come and see for themselves how the Crossbearers have buried their real intentions and actions in a multitude of deceptive words."[14]

In defending the liberty of Lithuanians and Samogitians, the Poles referred to the crimes of the Teutonic Order to show that the existence of the Order in these parts was unjustified, since there were not more infidels there threatening Christians. They claimed that the only basis for the Order's existence was to continue its policy of war, a policy based upon imperial and papal privileges and which appeared to give support to the cruelties comitted under them. Thus in defending the Samogitians and Lithuanians, the Poles again raised the question of the legality of papal and imperial grants. Trąba said in regard to this problem," the said letters, worse than anything that brings misery, by their very existence are the foundation of, and the encouragement of disasters."[15]

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[12] Hardt, Constantiense Concilium, Vol. IV, p.33.

[13] Finke, Acta, Vol. IV, p. 58.

[14] Mansi, Sacrorum Conciliorum, Vol. XXVII, p. 932.

From a theological point of view, the Poles did not hesitate to declare before the Council that the bulls and grants authorizing the Teutonic Order's conquest of pagan lands were heretical. In the delegation of Poles which arrived at Constance on November 28, 1415, was Nicholas Spensky whom Ladislas II ordered to represent the Samogitians against the Crossbearers.[16] Addressing the General Council, Spensky described the imperial and papal privileges and grants made to the Knights as justifying their crimes. He said:

> These papal and imperial letters, should be regarded as being not only erroneous, and against the law, but also against the faith...and consequently as deserving condemnation by the court dealing with matters of faith. For inasmuch as they are incompatible with the love of our neighbor and in consequence with the love of God, because, as has been said before, we love our neighbor because of God, they are against the faith...Inasmuch as they are for the purpose of devouring the rights of others without justifying cause, they are wicked

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[15] Hardt, *Constantiense Concilium*, Vol. IV, p. 546.

[16] Długosz, *Historiae Polonicae*, Vol. II, p. 373.

> and unjust. Inasmuch as they are to justify war against others they are rash and open the way to violence and robbery, murder and other crimes. They are injurious and cruel and a danger to civil order and public morals. Since they are contrary to the precepts of the dialogue, they are impious and cruel and a danger to civil order and public morals. Since they are contrary to the precepts of the decalogue, they are impious and offensive to decent ears, and therefore should be condemned.[17]

Shortly afterwards, Peter Bolesta supplemented these remarks of Spensky's saying:

> It appears from what has been said that all the above mentioned donations either papal or imperial have no legal basis whatever. This is true in the light of various considerations as has been said above: first, because they are contrary to divine law, second as regards the infidels, because they are robbed contrary to natural law; third, because imperial donation came forth from one having no authority to make it; forth, considering the insuffiency and injustice of the cause; fifth, because the said donations have been made of things not owned by the donors, and such donation is invalid on account of being prejudicial to the true owner... for one cannot donate a thing unless he owns it.[18]

Pawel Włodkowic looked upon the bulls and donations from a similar point of view and wrote:

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[17] Hardt, Constantiense Concilium, Vol. IV, p. 729.

[18] *Ibid*., p. 1296.

> The bulls and privileges have the force of sentence depriving the infidels of their dominions. In consequence the bulls deviate from the due order of justice and, too, from divine law which demands and includes such order. They are completely unjust, because the infidels are deprived without guilt and without lefitimate cause...which is contrary to natural, divine and human law, as the guilt or cause is presumed in law non-existent unless this is evidenced.[19]

What the Poles hoped to get from the Council eventually was a juridical interpretation of the imperial and papal donations. They felt it was the task of jurists to make some pronouncement upon the injustice of the decrees. They further felt that since the means used by the Empire to extend the faith were unjust, that they were not promoting the faith but impeding it. But if the bulls and privileges were heretical, then the lands held by the Teutonic Order through them were illegally held. This is exactly what Paweł Włodkowic pointed out when he said:

> It is evident by what has been said, that nothing of the goods, lands and dominions occupied by the Crossbearers belongs legally to them for many reasons, because they are

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[19] Włodkowic, Opinio Hostiensis, Bełch, Vladimiri, Vol. II ,p. 883.

> entirely incapable of possession, and because the letters mentioned by them contain a false cause of acquisition. Furthermore, because they keep these lands and goods for the benefit of hospitals which do not exist, finally because they obtain all these by notorious robbery. Unlawfulness is evident. The consequence is also manifest, they have no right to defend these possessions in court nor make exceptions. They should rather be compelled by this sacred synod to surrender them.[20]

The conclusions reached then by Spensky, Bolesta and Włodkowic were that popes and emperors could not authorize Christians to occupy or invade the lands of infidels. Endless evils resulted from such grants, they claimed. The wars conducted by the Crossbearers based on such grants were eqivalent to theft and robbery.[21] Moreover, the Poles felt that the infidels had a right, on the basis of the natural law, to defend themselves when their property and possessions were threatened by invasion. Paweł Włodkowic asserted that infidels had the right in such instances to have recourse to international courts of justice in just the same manner as Christians, because the right of self defense is guaranteed by natural law.[22] In court, he said, the testimony of a pagan would have the same fourrce as that of a Christian, and Christian judges would be bound to administer justice to infidels who had suffered injustices inflieted by Christians.[23]

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[20] Włodkowic, *Articuli Contra Cruciferos*, Bełch, *Vladimiri*, Vol. II, p. 923.

[21] Hardt, *Constantiense Concilium*, Vol. III, p. 125.

[22] Włodkowic, *De Potestate*, Bełch, *Vladimiri*, Vol. II, p.813.

Because of the general confusion in Europe about the matter of pagan rights, Paweł Włodkowic wanted the Fathers of the Council to clearly define their position concerning these rights and take a definite stand concerning them. In his formal address delivered to the nations on July 6, 1415, he proposed two resolutions. First, that the doctrine denying unbelievers the rights which they had by natural law be rejected as wicked and against reason, and as contrary to natural and divine law; and second, that the teachings of St. Thomas Aquinas on the rights of unbelievers be adopted as the law binding all Christians.[24]

The opponents of the Polish position at Constance could not be convinced that such a pronouncement should be made. Vrebach, for example, persisted in thinking of the infidels as, "simply beasts," and as, "men devoid of reason like beasts..., surpassing all beasts in ferocity...worse than beasts...more harmful than beasts."[25] Bishop James of Lodi also regarded infidels as, "dogs...with no right to defend themselves."[26] John Falkenberg maintained a similar theory. The official policy of the Teutonic Order in thie regard was presented in a document concerning the Samogitians, which claimed that basically the Samogitians were, "warfaring beasts." Only those who paid taxes to the Order were regarded as, "deserving to live."[27]

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[23] Ibid., p. 813.

[24] Mansi, Sacrorum Conciliorum Vol. XXVIII, p. 737.

What particularly amazed and annoyed the opponents of the Polish position at Constance was the fact that the Poles insisted that the infidels had the right to defend themselves even if attacks had been sanctioned by pope or emperor. The Poles always and carefully distinguished between those infidels who were peaceful, and those that might become belligerent.[28] Among the peaceful infidels, the Poles included those who could fight back when attacked by Christians.[29]

The Poles also defended the rights of peaceful infidels living among Christians and were concerned with the problem of tolerance. They insisted that infidels had the right to an unmolested life within Christian society, and that Christians had the obligation not to molest them.

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[25] Vrebach, Tractatus, Bełch, Vladimiri, Vol. II, p. 1179.

[26] Finke, Acta, Vol. IV, p. 694.

[27] Ibid., p. 695.

[28] Włodkowic, De Potestate, Bełch, Vladimiri, Vol. II, p. 835.

[29] Włodkowic, Articuli, Bełch, Vladimiri, Vol. II, p. 936.

Concerning Saracens and Jews living a decent life in a Christian state, Nicholas Trąba said, neither are Christian princes allowed to disturb or expel them or appropriate their belongings, nor can the pope command or persuade princes to do so.[30] Under such circumstances, Trąba said, the infidel has the right to claim, before Christian judges, the restoration of any stolen property, and quoting the,"true opinion of Innocent IV" said that,"infidels possess temporal goods as justly as do Christians." Thus, Trąba insisted, a Christian judge must administer justice to infidels, "whether or not they live within their own kingdoms or nations." Trąba added that,"it is their duty and right to protest, and resist, if any government should deprive them of their rights."[31] When such groups are afflicted, Trąba said, it was not because the assailant was right or fair to the subjugated people, but only because he was physically stronger. "Under such circumstances," Trąba asserted,"the oppression can never resign their consciences to the oppressor. They must always be men."[32]

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[30] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 837.

[31] Ibid., p. 1190.

[32] Finke, Acta, Vol. IV, p. 621.

Although the Poles defended infidels and Jews living in Christian states, they were primarily interested in independent, infidel states. Any violatiors of this independence were considered, "intruders, violating the rights of the people.[33] And here at Constance, " Paweł Włodkowic said, "such violators must come to recognize these rights of states."[34] It was for these reasons that Paweł Włodkowic energetically attacked the theories of John Falkenberg and denounced as heretical his propositions which claimed that the emperor could lawfully confiscate all the lands of pagans not recognizing his jurisdiction, that the emperor could freely attack infidels even if they were living peacefully, that the emperor could seize lands cultivated by non-Christians.[35] The Poles, however, sought more than mere toleration of infidels, something which they considered passive endurance of iniquity. Rather, they saw the need for positive friendly relations based on the dignity of the infidels as men. Paweł Włodkowic maintained that cooperation and good feeling and friendship between Christians and infidels was in itself good and should be permitted and encouraged.[36]

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[33] Długosz, Historiae Poloniae, Vol. II, Bk. XI, p. 562.

[34] Finke, Acta, Vol. IV, p. 492.

[35] Włodkowic, Scriptum, Bełch, Vladimiri, Vol. II, p. 1017.

While the Poles felt that friendly relations between Christians and infidels should be maintained, a concern of theirs was whether a Christian prince could lawfully use infidels in defending himself and his kingdom. The theory of Włodkowic was that in case of urgent necessity, a Christian prince could avail himself of the help of infidels, not only if they were his own subjects, but even if they were not.[37]

This question was particularly important to the Poles, for Poland had used infidel troops in her conflict with the Teutonic Order at Grunwald in 1410. At the Council of Constance, Poland was violently attacked for this. The Poles at the Council, therefore, assumed the responsibility of counteracting any manoeuvres, especially on the part of the Teutonic Order, which might represent the Polish victory as a defeat for Christendom by infidel forces, and to picture the Knights as martyrs in the cause of the faith. Some of the Fathers of the Council argues, for example:

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[36] Ibid., p. 1001.

[37] Włodkowic, De Potestate, Bełch, Vladimiri, Vol. II, p. 830.

> You say your King, a converted pagan is a good Christian even though he fights a Christian religious order in a war in which he joined forces with heathens and schismatics. Such conduct is wicked. Hence your war against the Order is unjust and you are heretics.[38]

The Poles in reply stressed the unlawfulness of the Order's wars against the infidels and Christian Poland, and defended the Polish alliance with infidels. As Trąba said, even Ioannes Andreae and Oldradus approved of alliances with infidels under certain circumstances, especially such as that in which the Poles found themselves. Such alliances he claimed were legitimate and legal as long as the infidels were peaceful, that the war was just and the cause upright.[39] James of Lodi then presented a treatise which was completely taken up with this problem. James denied the right of Christian princes to employ infidel forces against other Christians, despite the justice of the cause.[40] John Vrebach likewise claimed that any employment of infidel forces even for just defense was illegal.

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[38] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 987.

[39] Włodkowic, De Potestate, Bełch, Vladimiri, Vol. II, p. 842.

[40] Finke, Acta, Vol. IV, p. 708.

John Vrebach likewise claimed that any employment of infidel forces even for just defense was illegal.

Answering James of Lodi and John Vrebach, Paweł Włodkowic rather asserted the lawfulness of association and cooperation between all men of good will.[41] He said that self defense was always permitted by canon law, civil and natural law, and it followed that whatever is necessary to such defense must also be understood as permitted.[42] To deprive Christians of their only defense would amount to depriving them of the natural right to self defense. In regard to the Polish use of infidel forces against the Knights, Włodkowic said that the king was forced by necessity to employ all the forces at his disposal. He insisted that these were the plain facts known to everyone, and that they could not be obscured by any amount of nonsensical speculation.[43]

In conclusion one could say that the Poles prepared their defense of infidel nations according to contemporary thought and law, and earnestly worked for the good and well being of the infidels in opposition to the most violent accusations.

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[41] Włodkowic, Opinio Hostiensis, Bełch, Vladimiri, Vol. II, p. 876.

[42] Włodkowic, Articuli Contra Cruciferos, Bełch, Vladimiri, Vol. II, p. 945.

[43] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 996.

CHAPTER V

POLISH OPPOSITION TO FORCED CONVERSIONS TO CHRISTIANITY

The Polish delegation at the Council of Constance upheld the theory that the only lawful method of converting infidels to Christianity was that compatible with the real spirit of Christianity, and in keeping with canon, natural and divine law. Force, they insisted, could never be used. Poles of the fifteenth century were of the opinion that extending the faith by violence was unworthy of Christians, incompatible with the real spirit of Christianity, and merely a pretext to annex foreign lands. The Polish delegates at Constance thoroughly opposed the notion that Christians should either convert the non-believers or annihilate them. This delegation also took a strong stand against the attack and occupation of infidel lands for the supposed purpose of bringing unbelievers the faith.[1]

There were delegates at the Council of Constance who justified and approved conversion by force of arms, unannounced and unreasonable attacks upon infidels, and the wars of conquest carried on by the Teutonic Order. Such action was rationalized on the grounds that it advanced the cause of civilization, extended the power and authority of the Church and Empire, and increased the number of faithful. The most common reason advanced for such acts of conquest and annihilation, claimed that the Teutonic Knights were carrying out their mission to conquer the Slavic land of promise, and thus fulfill a three-fold duty: that of Christianizing, of civilizing and of Germanizing that territory which had been entrusted to them by the Empire, a trust which was confirmed by papal decrees an grants.

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[1] Hardt, Constantiense Concilium, Vol. III, p. 15.

The Poles looked upon such actions, not as advancing civilization, but as hindering it. And the instruments of this policy, the Teutonic Knights, were viewed as murderers, whom the Poles considered, "barbarians wearing a black cross with a white mantle."

One of the problems then which the Poles undertook to examine at Constance was whether the infidel peoples could rightly be forced to accept Christianity, or whether all such action of force, conquest and annihilation, aimed at extending the faith, was wrong. The position which they presented amounted to a defense of liberty and freedom on behalf of infidels and neophytes, and was perhaps one of the most powerful known to the Middle Ages. The Polish delegates considered the freedom of religious choice an intrinsic component of the broader sphere of human freedom. In examining the matter of conversion, They dealt exclusively with conversion to the Christian faith, acceptance of the Christian religion, the act of becoming a member of the Church, and of spiritual subjection to the papacy. At the same time, they threw themselves against that set of principles which they called, "the Prussian heresy."[2] Andrew Laskarz first approached the heresy on behalf of Poland and the Polish delegation. "The question is this," he said, "is it permissible for Christians to compel infidels, by force of arms to accept the faith?" Laskarz began his answer to this question by an examination of Sacred Scripture and its pronouncements on the matter. While divine revelation, he said, did not explicitly affirm the right of man to immunity from external coercion in religious matters, it did, he said, disclose the dignity of the human person in its full dimension. It indicated the respect which must be shown to that freedom by which man is suppose to fulfill his duty of belief in God.[3] As he also pointed out, "from the very beginning, the Disciples worked to convert men to the faith not by the use of coercion or by devices of force, but rather by appeals made to reason.[4]

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[2] This "heresy" constituted all that the Poles declared themselves opposed to. According to Archbishop Trąba, the "heresy" proposed that, "The Catholic faith could be propagated by soldiers through unprovoked wars; that lands and dominions of infidels could be lawfully occupied dispite the fact (as Trąba inserted) that they were held by natural law and rightfully; that the free status of infidels could lawfully be ended, and they could be subjugated and enslaved by Christians through war; that all this could be done legally, without having committed any crime; and finally that such action was not only lawful but by all means, pious." Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 981.

Peter Bolesta found his arguments against forced conversion in canon law. "The apostleship which exacts faith by scourging is strange indeed, and unheard of in the Church," he said. "The canons dealing with conversion," he added, "stress that free determination by the unbeliever is necessary to obtain the faith of Christ." In such matters," Bolesta further commented, "neither the pope nor emperor can force infidels to accept the Christian religion." These canonical assertions," he said, "are based upon the assumption that all men are created, as rational beings, free." Then quoting St. Augustine who said, that nobody should ever be forced into the faith, Bolesta commented that this was so because, " faith ought not to be a matter of temporal necessity."

Peter Bolesta then proposed further canons in which the Church had decreed the method which missionaries should use in approaching unbelievers. "Those who hope to convert others," he said,"as the canons command, should

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[4] Finke, Acta, Vol. III, p. 1001.

[5] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 1108.

should approach them with gentle and attractive arguments, rather than with those that repel." He explained that such an attitude is more fitting because," prospective converts might be attracted by rational persuasion whereas they would be estranged by hostility."[6] Finally, Peter Bolesta refers to the conflict between power and love. "Whenever power rather than love is applied," he said, "the motivation in the matter of conversion is self gain rather than Christianity or its advance." He claimed that by such an attitude, it was, "very easy to depart from the precepts of law, especially when the idea of domination prevailed over the idea of service." Dignity" he said," soon comes to spur pride, and as a result supposed actions of goodness, soon become actions of harm."[7] In other words, Bolesta upheld the point of view that conversion to the faith by power instead of love or respect, simply resulted in an increase of power which in turn led to a hunger for more power. As a result, the missionary activity which might have begun as an activity for good, becomes one of evil. The Poles were, therefore, opposed to the crusading venture of western knights, whose purpose was the extension of the faith by the sword. In such matters, the Poles believed that piety was only a mask for violence.

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[6] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 1109.

[7] Ibid., p. 1110.

Having presented these arguments, Peter Bolesta could conclude that not only was it wrong to force Christianity upon anyone against his will, but the papal and imperial bulls, grants and decrees which handed-over to the Teutonic Order great areas of land, were null and void. It was upon these grants that the Order of Crossbearers had based its claims of conquest. In declaring their invalidity, Peter Bolesta challenged, as well, the accepted principle of papal and imperial temporal universalism.[8] Bolesta felt that men should, "be led to the faith, to salvation and to justification, freely. The mysterious work of conversion" he said, "is a free act in its nature, violent measures should be absent from it."[9] Nevertheless, Bolesta proposed that unbelievers could be, "stimulated," by men and encouraged to accept the faith. But such stimulation, he maintained, should not be evil in itself, but attractive, "sometimes exhortations, sometimes gifts." [10]

The Teutonic Order, however, approached unbelievers with methods that were both evil and illegal. Their intention, as Archbishop Trąba pointed out, was not sincere. This they hid under lofty principles. In fact, Trąba said, the Order was simply looking for temporal gain.[11]

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[8] Lenfent, Histoire du Concile de Constance, Bk. III, p. 268.

[9] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 1112.

[10] Ibid., p. 1111.

[11] Ibid., p. 872.

At this point, Archbishop Trąba having claimed to disclose the real intertion of the holy wars of crusade, raised the question, "are such wars deserving of the name, 'holy'?" Obviously the archbishop did not consider them such. Actually he considered them to be opposed to the true spirit of Christianity. To support this position, Trąba quoted St. Thomas Aquinas who said:

> Not indeed for the purpose of forcing them to believe may wars be fought, because even if they were to conquer them, and take them prisoner, they should be left free to believe as they please.[12]

Paweł Włodkowic supported Archbishop Trąba on this point. Relying on the decree of the Council of Toledo, Wlodkowic pointed out that, "the Church decreed in the General Council of Toledo and ordered that...it was not permitted to bring anyone to the faith by force or to molest anyone. Thus," he said, "if force may not be used to convert infidels, the wars of conversion which apply force are not only illegal, they are immoral and unholy as well."[13]

On this occasion Włodkowic made some bitter remarks concerning this practice of the Teutonic Order:

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[12] *Ibid.*, p. 783.

[13] Włodkowic, *Conclusiones Tres*, Bełch, *Vladimiri*, Vol. II, p. 879.

> This Order, maintains the contrary and asserts that in their holy wars, it is lawful to invade the infidels, and snatch from them, their goods and in the end, to compel them to the faith otherwise to exterminate them. And this the Friars have practiced for more than one hundred and sixty years, and strange to say, without being opposed. And what is even more detestable, with the assistance of Christianity.[14]

Włodkowic again took this opportunity to driticize the Order, pointing out that they, in fact, deprived infidels of their possessions. This, he said, only alienated them, causing them to adhere with greater zeal to their pagan religion. In this obstinacy, Włodkowic said, they would be justified for they should have received justice from Christianity whereas they received intolerance and cruelty.[15]

Among the opponents of the Polish delegation at the Council of Constance, only John Vrebach and John Falkenberg bothered to take a stand against the Polish position. John Vrebach said that infidels could be led to the faith by depriving them of their freedom and means of livelihood. He believed that there were two means of conversion: preaching and compulsion. The latter, he said, should be applied without the slightest hesitation to the infidels.[16] In addition, he considered all infidels as criminals who did not recognize the dominion and authority of the Empire or papacy. As criminals, they should be sought out, hunted down, and annihilated.[17]

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[14] Włodkowic, Articuli, Bełch, Vladimiri, Vol. II, p. 925.

[15] Ibid., p. 927.

John Falkenberg generally agreed with these observations. He claimed to be in accord with the principle that unbelievers should not be forced to accept the faith, because the will was not subject to force, and the faith was wholly a matter of free acceptance by the uncoerced will. Nevertheless, he taught that infidels could not be left to their own free decision, in matters of conversion. An explanation for this obvious contradiction is impossible.[18] Falkenberg asserted that even the Jews, who in cases of obstinacy, refused to become Christians, could be induced by force to accept the faith. He did not exclude the sentence of death in this matter. The pope and the emperor, he declared should not hesitate to use force against infidels, Saracens or Jews in bringing them to Christianity. This was their duty, he insisted, to convert all Jews and Gentiles. Neither should hesitate to use all means at their disposal to effect the conversion, and when the word could not serve as sufficient medicine, the sword should be used. To effect the conversion of unbelievers refusing to listen, force was the only answer. Because of Falkenberg's and Vrebach's pronouncements, the Poles continued to advance further artuments to strengthen their position, that extension of the faith by means of force oppression and conquest was opposed to divine and human law, and totally contrary to the Christian faith.

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[16] Vrebach, Tractatus, Bełch, Vladimiri, Vol. II, p. 1158.

[17] Ibid., p. 1147.

[18] Włodkowic, Scriptum, Bełch, Vladimiri, Vol. II, p. 1108.

Peter Bolesta declared that, "the extension of the faith by means of war as indicated in the bulls of Alexander IV and Clement IV, appear not to be compatible with the Christian faith, and indeed repugnant to it."[19] Nevertheless, inspite of the evil which accompanied these terrible wars, the Friars continued to maintain that they were pious wars, fought for the good of the faith and the Church. Bolesta asked, "how can practices of war, cruel as they are, be approved by the Church and in keeping with the principles of love taught by the faith? How, " he asked, "can such bloody warfare serve a religious function? Neither the Church nor the faith," he said, "could approve tacitly or expressly such evils." Bolesta went on to say, "neither is it possible to bring about any type of reform in these notions, since their proper nature and status is totally unjust, and inconsistent with Christian morality."[20] Indeed, Bolesta declared, this philosophy of war is perpetuated despite the faith, not because of the faith, or in keeping with the faith. For the faith is founded on peace."[21]

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[19] Finke, Acta, Vol. III, p. 946.

The fundamental argument by which Andrew Laskarz hoped to demonstrate the validity of Peter Bolesta's assertions was the insistance upon human dignity and right, and further, "because such a mode of violence is an unjust oppression of men, forbidden by the decalogue." Laskarz insisted that,"evil may not be done that good may result. Nor is it permissible to do an impious thing under the pretext of piety." Such wars of conversion, Laskarz insisted were rather a hindrance to the extension of the faith.[22]The propagation of the faith, he added, belongs to theologians not to soldiers, and the action of propagating the faith, should never be undertaken by the military.[23]

Archbishop Trąba likewise insisted that the propagation of the faith was not sufficient cause for fighting and depriving unbelievers of their possessions. The Poles devoted much energy and discussion to the question of war as an effective means, in itself, in bringing the faith to non-Christians. Speaking of war as a, "grave encounter and slaughter of people,"

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[20] Ibid., p. 947.

[21] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 520.

[22] Finke, Acta, Vol. III, p. 947,

[23] Hardt, Constantiense Concilium, Vol. IV, p. 37.

Paweł Włodkowic insisted that war could not be a proper way of extending the Catholic faith for war was not instituted for that purpose. Rather, he said, "it is a method of settling differences by force more proper to brutes than to men."[24] All things, Włodkowic said should be used for the purpose for which they were destined or instituted. Whatever is intended to produce a particular effect or bring about a particular end, may never be used to produce another effect or end. As regards the end in question, the Christian faith cannot effect war, so that war can be neither the cause nor the effect of the faith. In consequence, the end in question, that is the interest of the faity, cannot be the primary cause of war. Even though some may insist that they intend the welfare of the faith by wars, nevertheless, the inner intention cannot be hidden. The means makes obvious the end, which is selfishness. Neither can the effect excuse the real intention. That is, if the unbelievers in the given territory become Christian by means of war and conquest, it does not make war the proper means to achieve the faith. Włodkowic concluded, therefore, that under these circumstances, wars of crusade which could never be a means in achieving the advance of the faith, were illicit usurpations of of the rights and dominions of the attacked. By no means was it then legitimate to use an unsuitable method to achieve a desired end. To force the faith upon others under such circumstances, is under all considerations wrong.[25] Włodkowic added that the zeal of the warriors does not serve to ratify the evil methods used to advance the faith. "This zeal," he said, "originated in cruelty and not in charity." Considering the papal and imperial bulls which authorized war for such a purpose, Włodkowic regarded them as, "erroneous, utterly false and iniquitious," because these bulls, "under the disguise of piety that is, for the cause of the extension of the faith, absorbed others' rights without just cause, contrary to natural divine and human law, and therefore, are unjust and iniquitous." Sinse the bulls and grants proceded from principles contrary to the faith, they are all the more to be declared iniquitious, and evil. Włodkowic insisted that the extension of the faith was no concern of the emperor, and to say that God had instituted the Empire to preach the Gospel or to propagate the faith among the heathen, meant for the Empire to involve itself in an area in which it had no concern. As for the pope and his bulls, although the pope had jurisdiction over all men in matters of religion, this authority was that of a father whose function was to maintain justice and order. But the pope may not deprive infidels of the kingdoms which they possess, nor may he punish them for crimes which they may commit.[26] The emperor, Włodkowic insisted, could not give permission to anybody to invade or occupy the lands belonging to infidels, particularly those who were living in peace and not recognizing his imperial power. This is so, Włodkowic insisted, because he simply does not have legally the power to do so. In consequence, because of the pope's power, as father, and the emperor's lack of power, neither the papal nor imperial privileges granted to the Teutonic Order bestow any right to acquire the land belonging to infidels. As a result of these consideration, Paweł Włodkowic insisted that all territorial acquisitions made under such circumstances are unjust and should be restored together with war damages to the infidels.[27]

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[24] Włodkowic, Conclusiones Tres, Bełch, Vladimiri, Vol. II, p. 899.

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[25] Długosz, Historiae Polonicae, Vol. III, Bk.I, p. 20.

Considering the unlawful and immoral means which had been used by the Teutonic Order, the question of its legitimacy arose and in this regard the Poles hoped to demonstrate that the Order was, in fact, heretical. The end, Włodkowic said, for which the Order was instituted was supposedly the extension of the faith. But a religious order cannot at the same time be religious and military. Even if one could suppose that wars of conquest conducted by the Order against the infidels were lawful, then a religious order, which is waging such a war, is not a religious order, but a secular association, since soldiering is not an act of religion. The error of the Order could further be proven, he claimed, on the grounds that it acted upon donations which had been granted for the purpose of propagating the faith with the sword, which according to theology and canon law were illicit. In advancing the contrary doctrine, the Order committed heresy. Moreover, religious orders, in accordance with canon law, cannot have possessions especially independent states. While the Order by its own profession should use persuasion not iron, they have rejected the former and employed the latter. They conquered the territories of the infidel and have established a state on principles which are directly opposed to Christian morality and principles of faith.[28]

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[26] Włodkowic, *De Potestate*, Bełch, *Vladimiri*, Vol. II, p. 836.

[27] *Ibid*., p. 840.

Poland and her delegates at Constance were now attacking the Teutonic Order in its legal foundations with one objective in mind, namely to prove that the Order's state was not a state, and that the Order was not a religious order.

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[28] Hardt, Constantiense Concilium, Vol. III, p. 488.

In the first case, it was a band of usurpers, in the second, it was a heretical sect dangerous to Christendom. The Order claimed its right upon the basis of papal and imperial privileges which authorized its existence and activity for the purpose of conquering all territories north-east of Poland. The Poles attacked the authority of these grants and privileges, and questioned their validity. This then reflected upon the validity of the Order.[29]

To further bring into question its legality, Trąba pointed out that the Order claimed that its end was the spreading of the faith. Now, considering the means it employed in order to achieve this end, that is violence, and unjust wars, which were contrary to the faith itself, evil in themselves, and prohibited by divine law, it was obvious that its status as a religious order was doubtful. It was therefore, evident that the Order was in reality, something else than what it pretended to be. An institution that intended the extension of the faith with such means, as indicated, was heretical.[30]

Archbishop Trąba came to the conclusion:

> Since the end is, of itself, the cause of all means to achieve the end, we must agree that the faith is, of itself, the cause lf all these wars. Since these wars are unjust, it follows that the

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[29] *Ibid.*, p. 163.

[30] *Ibid.*, p. 166.

> faith, is the cause of injuries, killings and of other evils which accompany such wars, but this is unthinkable. Since the Order is founded on such principles, we must conclude that it is against the faith. [31]

Because of these conclusions, the Poles requested Pope Martin V to declare that neither the pope nor the emperor had the right to authorize anyone to invade the unbelievers, or occupy their lands for the purpose or end of extending the faith without the conditions of a just war being present. The Poles insisted that since the end is the cause of the action performed, it is contrary to the faith that the faith itself should be the cause of war, violence and destruction.[32]

Since the Polish delegates saw the dangers which resulted from the theory of forced conversion and subjugation of non-believers, they requested the Council of Constance to condemn, as heretical, any assertion that the pope or emperor could decree that unbelievers not obeying a call to accept the faith should be forced to do so.[33] They also urged that the notions of the Teutonic Order, that is, conversion by oppression and conquest be also declared heretical.[33]

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[31] Mansi, *Concilium Constantiense*, Vol. XXVIII, p. 878.

[32] Hardt, *Constantiense Concilium*, Vol. III, p. 425.

[33] Włodkowic, *Articuli Contra Cruciferos*, Bełch, *Vladimiri*, Vol. II, p. 929.

Considering the imperial privileges alone, the Poles considered them juridically speaking, illegal and invalid. As a result of this legal invalidity, the wars conducted by the Order were unjust, since they were based on unjust principles.[34] As Laskarz said, although the work, that is the conversion of infidels, is good in itself, it does not essentially belong to secular authority. The mode and manner used to achieve this worthy end, is prohibited and unlawful.[35] From these premises, the Polish delegation through Laskarz, concluded that the faith should not be the cause of oppression, all actions which hope to extend or advance the faith by oppression are, "notoriously erroneous and evil."[36]

At this point Laskarz again raised the question of intention and asserted that really the bulls and decrees pronounced to advance the faith, had other motives than the good of the faith. The real intent of the conquerors was simply hidden under pious words. It was cupidity that was the basis of action.

The opponents of the Poles at Constance answered the Polish assertions by saying that the cause of religion was the highest reason of any human action. From the declaration, it might be inferred that the cause of religion could justify all means. While agreeing with the principle itself, Archbishop Trąba said that the application of this principle, irrespective of means, was erroneous. He said, "although the cause of religion is indeed the highest and loftiest cause of action, nevertheless all means to advance religion, must be appropriate and suitable to the cause." He continued:

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[34] Włodkowic, De Potestate, Bełch, Vladimiri, Vol. II, p. 815.

[35] Hardt, Constantiense Concilium, Vol. III, p. 457.

[36] Ibid., p. 452.

> Since the means presented here are neither appropriate, namely, violence and destruction, and indeed they are prohibited by the faith and the Church, the faith or our religion cannot be regarded as the cause of anyone's oppression and of evil. To maintain otherwise, is heresy, for evil may never be done that good may result. Nor can such oppression, which has been declared pious, be covered and colored with a concealing cloak of goodness.[37]

Besides pointing out and opposing the use of violence and force as a means to extend the faith, the Polish delegation proposed as well, what it considered the, "good way," of converting non-believers to Christianity. Generally speaking, the good way was that which was consistent with the true nature of religion and the human person. The missionaries, they said, should approach the unbelievers as men should approach men, that is, with full regard for their human nature and dignity.

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[37] *Ibid.*, p. 397.

There should be no coercion of human power so that in this way, no one will be forced to act contrary to his will and beliefs. Albert of Cracow summarized these principles saying:

> Not with the spilling of blood, not with the clanging of the sword, is the faith brought to the infidels, but rather in respect and understanding, agreement, love and acceptance. Never through force and power but patience and humility sobriety and serenity. Thus is the faith advanced.[38]

More specifically, the Poles presented two ways of approaching the unbelievers with the purpose of converting them: preaching and appealing to reason and will. By the first, preaching, they said the unbeliever was accustomed to the new faith. By the second, appealing to the reason and will, the unbeliever could observe and slowly absorb the Christian way of life.[39]

It would appear that the fundamental truth upon which the Poles based their principles of freedom in the matter of conversion to the faith, was that the actions of man are valid only if they are freely willed.[40] No one, they declared, should be forced to embrace Christianity, for man's faith must be free. This right to religious freedom was not merely a superficial consideration conceived by the Polish delegation to present in their dispute with the Order. The Poles sincerely believed that the right to religious freedom had its basis in the very dignity of the human person. A dignity known through reason itself. It was in consequence of this conviction, that they violently opposed any tactics of force used to convert non-believers.

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[38] Mansi, Constantiense Concilium Vol. XXVIII, p. 936.

[39] Włodkowic, Conclusiones Tres, Bełch, Vladimiri, Vol. II, p. 897.

[40] Lenfent, Histoire du concile de Constance, Bk. IV, p. 343.

Unbelievers, Trąba pointed out, were keen observers. Even though they were unfamiliar with Christian theology, and ethics, they could grasp the true nature and intention of those who approached them with the intention of converting them. It should be expected, he said, that they would react accordingly. It was impossible, Trąba asserted, for the infidel to think that Christians acted wholesomly when they committed treachery and murder and deprived them of their freedom.[41] Besides, he asked, why should the infidels be forced to pay for the Christian religion by forfeiting their natural rights?

The fact that non-believers were keenly aware of the bad behavior of Christians was supported by the declaration made by bishop Peter of Wilno who carried the problems of the Lighuanians to the Council. Speaking of the behavior of the Knights as observed by the Lithuanians he said:

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[41] Mansi, Constantiense Concilium, Vol. XXVIII, p. 1230.

> It became apparent to us that they...the Friars, aspire to what is worldly without giving any thought to what is heavenly. They were to give us the knowledge of salvation. In fact, they engaged themselves in pursuing their own cause and not that of God, following the way not of kindness, good will and divine justice, but of what is abominable, especially of the love for money which is the root from which every kind of evil springs. Being hopeful to receive from them the plenitude of justice, we decided to put them to the test and to examine their good will, namely, would they inspire us with the Catholic faith? And what we have learned is that they were utterly devoid of human kindness and feelings. Their shameful life confirmed us in our ancient errors, to such a degree that many contaminated by the Teutonic behavior, decided to die in their error rather than to assume the Catholic faith which had been so deformed. 42

What alienated and repulsed the unbelievers most, the bishop said was the fear of being deprived of their freedom, the right to their land and the means of livelihood. All of which freedoms, he declared, were the fondations of a decent life. The non-believers, he said, cannot reconcile or understand that to beocome Christian, they must forfeit their property, their freedom and at times, even their lives. Under

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[42] Dźugosz, Historiae Polonicae, Vol. II, Bk. XI, p. 357.

such conditions, they naturally prefer the security of their old ways. In this way, they hoped to preserve their human dignity, rather than become Christian and be deprived of all rights which were due to them, as men.

The unbelievers are able to understand that the missionaries who robbed and killed were not real representatives of the faith. These observations and considerations of non-believers have a decisive influence, bishop Peter said, upon their attitude toward the faith. He concluded by saying that, "if men were not distracted by errors which manifest themselves in bad religion and bad philosophy, the progress of mankind would be less faltering." What was most needed here, he insisted was respect. Respect for men as men.[43]

By their efforst, the Poles at the Council of Constance were working to reform the missionary legislation of the Church, by means of their considerations on freedom and liberty. They hoped to make the Fathers of the Chuncil understand the absurd, immoral and illegal nature of existing methods. Under these methods, conversion to the remaining non-Christians meant loss of independence and personal destruction after becoming Christian.

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[43] *Ibid.*, p.358.

CHAPTER VI

THE FALKENBERG AFFAIR

As we have seen, the relationship between Poland and the Teutonic Knights at the Council of Constance was belligerent and unfriendly. The debate between Poles and Germans, however, was only an expression of a long chain of hostilities that existed between them. Although there were no reservations on either side during the decades of conflict, it was during the Council of Constance that intense, bitter hatred broke forth and the most violent words were spoken. It was this build-up of events that produced the incident known as the Falkenberg Affair, which occupied almost entirely, the attention of the Polish delegates in the latter period of the Council. While this matter was primarily a local political issue, the Poles made every effort to give it a more universal, philosophico-theological character, since the Council was itself chiefly dedicated to resolving religious issues.

The controversy centered around a pamphlet written by John Falkenberg, a Dominican, entitled: *Satira contra haereses et cetera defanda Polonorum et eorum regis Iyagyel fideliter conscripta*. *Satira*, as it was called, claimed that

Poland had not converted Lithuania to Christianity, but, in fact, had become an apostate nation, subject to the pagan Lithuanian Grand Duke, Jagiello, who had pretended to become a Christian only to gain the crown of Poland. Such a powerful ruler, at heart, an enemy of the Church, should be attacked, conquered and destroyed along with his princes. In addition, he had committed the unpardonable crime of employing infidel forces against the Order of Crossbearers, and had beaten them.[1] Falkenberg further urged the extermination of all Poles, "those whelps who have returned to the mire of their infidelity." He believed that it was necessary to destroy all of them, with the resulting guarantee of eternal reward. It was necessary to take their princes and leaders, "to the gibbet, and hang them there to rot in the glaring sun."[2] Falkenberg's pamphlet, was a document which surpassed anything in the history of the Middle ages in revealing national hatred.[3] Satira, interestinly enough, became known to the Poles at Paris, where Trąba, John of Tuliszków and the knight, Zawisza Czarny had accompanied Sigismund the emperor. Sigismund had travelled to Paris in 1417, to restore peace between the French and English. The Poles, "had been instructed to accompany the emperor on this mission, by the King of Poland, that they might discuss with him (Sigismund) the difficulties between Poland and the Teutonic Knights.[4]

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[1] Włodkowic, Scriptum, Bełch, Vladimiri, Vol. II, p. 1015.

[2] Ibid., p. 1016.

[3] Sidney Ehler and John B. Morall, Church and State through the Centuries (London, 1954), p. 131.

Hoping to impress the emperor and advance the reputation of the King of Poland, Archbishop Trąba was in the habit of holding sumptuous banquets. Invited to these feasts were the emperor, and various masters, doctors, students and members of the University of Paris.[5] It was at such a banquet given in the season of Advent, 1417, that the oldest doctors of the University of Paris handed over to Trąba a book containing the pamphlet, Satira.[6] The archbishop intended to take the pamphlet to Constance, planned to defend the King and Kingdom of Poland there, and hoped to present its many errors to the sacred synod. He hoped, as well, to reveal its author, John Falkenberg, as a heretic, and to seek his condemnation, along with that of the pamphlet.[7] On January 27, 1418, the head of the Polish delegation, Nicholas Trąba , returned to Constance from Paris and from February 8, to the 10, the Council was actively occupied with the pamphlet.[8] Later, the Council appointed a committee composed of several cardinals to investigate the errors of faith contained in the document.[9] The Polish-German controversy now centered around the libellum of Falkenberg. Perhaps the best perspective from which to view and understand Falkenberg's work, is the defeat of the Teutonic Knights at Grunwald, since the Dominican considered that defeat a calamity and outrage, causing him to harbor extreme resentment and hatred against the Poles. Falkenberg, who was perhaps the most sincere, frank and outspoken exponent of all the Teutonic Order stood for, considered this war waged by the Poles against the Friars, unjust.[10]

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[4] Długosz, Historiae Polonicae, Vol. II, Bk. XI, p. 375.

[5] Ibid., p. 376.

[6] Ibid., p. 375.

[7] Ibid., p. 377.

[8] Hardt, Constantiense Concilium, Vol. IV, p. 1091.

Unfortunately, the libellum of Falkenberg no longer exists. What is known of the pamphlet has been reconstructed from references to it found in the writing of Poles who opposed it. Having carefully studied the writings of Paweł Włodkowic, one of Falkenberg's main opponents, Stanisław Bełch has listed these conclusions presented in the treatise of the Dominican. First, the King of Poland is an evil rule, and all the Poles are idolaters of their king. Jagiello. Second, the Poles and their king are hateful heretics, and so all Christian princes should bestir themselves to exterminate them, an act worthy of eternal life. Third, it is more meritorious to kill Poles, their princes and their king, than to kill pagans, because of the danger presented to the Church by the Poles,who threaten it with even greater disunion. Fourth, the entire affair should be resolved by a war against the Poles. Fifth, the University of Cracow is offensive because of its sin of heresy, which completely permeates it. Wherefore, it transfers heresy, harming possible members of the Church. Thus the Christian princes of the world should seize the sword and without the slightest delay destroy the Poles. Sixth, the Christian princes of the world who delay to put an end to the crimes of the Poles and their King, Jagiello are at fault, and deserve eternal slavery. Seventh, the Poles are worthy only of eternal death. Eights, the Poles have not really been converted. This is made obvious by their superstitious lives. And finally, the princes of the world are bound to purge with arms, the sacrilegious Poles and their king from this earth.[11]

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[9] Ibid., p. 1090.

[10] Bełch, Vladimiri, Vol. I, p. 178.

Ordinarily, these conclusions might have been put aside and labelled absurd, because of their unfounded and fabricated assertions. Indeed, they might have been ignored and disregarded, but they were taken seriously by Falkenberg, his allies and the Knights, who hoped to put them to practice. And further, because the Teutonic Order was thought by some to be a manifestation of the Christian spirit, Falkenberg himself must have believed that his Satira would be taken seriously and quickly accepted if he should publish it, and bring it to Constance. Rather than a manifestation of Christian virtue, however, Satira was simply a call to secular princes for a crusade to destroy the Polish people, and their government, expressed in philosophical, theological and legal terms, an appeal for extermination in the name of a peculiarly conceived Christian duty, and a distorted understanding of Christendom and Christianity. It was the formulation of a doctrine justifying and advocating mass murder. It advocated the killing and extermination of a nation as an aggregation of individual human beings.[12]

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[11] Ibid., p. 220.

To say that this doctrine was dangerous, is to speak in understatements. Indeed, if left unrefuted, it could condone the murder of individuals who in conscience might not accept certain teachings of the Church. And further, if heretics could thus be killed, could not the same be done to non-believers on similar grounds? In opposing this doctrine, the Poles did more than simply defend their nation against the attacks of a traditional enemy, an attack which, if left unrefuted might bring about its complete annihilation, with all western Europe descending upon it. The Polish offensive was, in fact, a defense of the right of nations and individuals to exemption from arbitrary control, a defense of the inviolabilety of conscience to reject what it does not believe, and of the will to repudiate the need to conform to accepted standards of orthodoxy.

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[12] Bełch, Vladimiri, Vol. I, p. 177.

A. The Polish Response to Satire.

In February, 1418, the Poles began their attack against Falkenberg's libellum, hoping to bring the attention of the entire Council to the offensive pamphlet, and the distressing activities of the Teutonic Order. The debate began with an indictment delivered by Archbishop Trąba on February 8, Along with the archbishop, Paweł Włodkowic, Andrew Laskarz, Peter Bolesta and Albert of Cracow were especially active in refuting the libellum. The Poles were not alone, in opposing the document, for they received active support from several outstanding scholars who attended the Council, particularly Cardinal Zabarella, the canonist, Maurice Rvačka of Prague and John Gerson of Paris.

Cardinal Zabarella had served as the director of studies for Paweł Włodkowic and Andrew Laskarz during their stay in Padua. It is conceivable that during this period of close acquaintance, that Włodkowic and Laskarz fully informed Zabarella of their country's diffaculties with the Crossbearers, and that he then developed a sympathetic attitude toward the Polish position. In any case, his support of, and collaboration with the Poles in the Falkenberg Affair is well known.[13] As for Rvačka, he considered this a matter which called for an alliance between the two Slavic nations, an attitude, which might indicate an awakening of the Slavic spirit against the Germans. Rvačka expressed the idea that in this matter, the Poles were defending the whole Slavic world, and at the same time, were apostles of tolerance, and adversaries of conversion by blood and the sword.[14] Finally, John Gerson also worked for the condemnation of the notions presented in Satira. He presented his arguments in his, Dialogo Apologetico in which he described the entire contents of Satira as , "an error which must be extirpated, and denounced here at Constance. " He felt that to neglect such a action, would detract from the success and purpose of the Council, and tend to its condemnation.[15]

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[13] Morawski, Histoire de L'Université de Cracovie, Vol. I, p. 169.

[14] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 1027.

[15] Hardt, Constantiense Concilium, Vol. IV, p. 1513.

As for the Poles themselves, they felt that the Falkenberg doctrine was, at heart, a threat to all of Europe, inasmuch as it threatened its moral sanity.[16] The Poles were aware that the doctrine of Falkenberg might be a threat to the existence of Poland. They feared that it could possibly encourage the Teutonic Knights, with the assistance of misled western knighthood to destroy Poland, since Falkenberg's manual presented deeds of murder as God-fearing acts, inspired by Christian charity. Such theories created some concern for the future of Poland, and for the peoples united to her, if the theories were left unanswered or unrefuted.[17]

Aware of the seriousness of the occasion, and the nature of the doctrines contained in Falkenberg's writings, the Poles carefully planned their arguments. They were aware that Poland was confronted with the problem of converting the last remnants of paganism in Europe, and acquainted with the imperialistic policy of a German state using the pretext of propagating the Christian religion for purely political aims. Their course of action was to carry the conflict to a higher level than that presented in the pamphlet of Falkenberg.

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[16] Alfred Coville, *Jean Petit et la question du tyrannicide au commencement du XVe siècle* (Paris, 1932), p. 556.

[17] Bełch, *Vladimiri*, Vol. I, p. 181.

The Poles sought rather to discover and point out the error, which they called haeresis Prussiana, and reveal its theories of political expansionism at the expense of peoples regarded as inverior.[18] They sought to unveil a doctrine which,"by all standards of human custom and conduct was faulty and theologically heretical."[19]The Polish theologians and canonists thus motivated, studied and examined every aspect of Satira, to discover by what arguments it might best be refuted, and their own position defended before European public opinion, before the Council and before the pope.

Although the Poles considered all the accusations and conclusions of Falkenberg morally erroneous, they viewed Satira as advocating one primary evil, murder. The Poles, however, did not attempt to discuss this evil, as such. This, they felt, was already known to the Council Fathers. The problem was, that Falkenberg had so presented this crime, that under the circumstances in which he upheld it, it might be acceptable by the Council Fathers and by western Europe, even as war might be acceptable under proper conditions. The

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[18] Ibid., p. 25.

[19] Hardt, Constantiense Concilium, Vol. IV, p. 426.

Polish delegation attacked the reasons for which murder had been proposed by Frlkenberg, and thus hoped to destroy his argument for using such extreme, violent and amoral measures.

In this respect, Albert of Cracow said that since the accusations of Falkenberg had not been proven, their strength was vitiated. As they stood, he said, the contentions of the Friar could nonly be assumed to be true by him. Certainly they could not be presumed juridically false, since accusations are always taken to be false until proven true.[20]

Andrew Laskarz then pointed out that accusations alone do not serve as evidence, and if left unproven are of no value.[21] Laskarz insisted that the opposite of what the pamphlet claimed was really true:

> The pamphlet published, and its accusations are entirely false, defamatory and impious. To disprove its accusations, one need only visit Poland and Lithuania, and see the progress made there in the Catholic faith, and the number of cathedrals, parish churches and monasteries, which have been built.[22]

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[20] Mansi, Sacrorum Conciliorum, Vol. IV, p. 902.

[21] Hardt, Constantiense Concilium, Vol. IV, p. 1549.

[22] Lenfent, Histoire du Concile de Constance, Bk. II, p. 163.

Since there was no cause for attack against Poland, Paweł Włodkowic claimed that to carry out such acts of murder would be wrong for several reasons: First, because homicide is evil of itself, and contrary to divine, human and natural law, and thus prohibited. Second, because the reasons advocating homicide, in this instance are false. Third, because the king is to be killed without just cause and without the opportunity of self defense. Finally, because those who are to perform the act are proceeding without legitimate trial.[23]

In the last two propositios, Paweł Włodkowic was influenced by a principle of Polish law which held that an accused had the right to defend himself.[24]

Finally, as Paweł Włodkowic pointed out, whenever something is expressed negatively in law, for example, "Thou shalt not kill," it is always prohibited unless an exceptional incident is found which renders the command vitiated. Thus, one may not kill, ever, unless a valid, sufficient reason is found. Such a reason, or reasonable exception, has not been presented in this instance, nor in fact, does it exist.[25]

Since Falkenberg's accusations against the Poles were groundless and unproven, he had no basis for advocating murder, which Włodkowic had reminded the Council was _in se_ evil, and also contrary to human, divine and natural law. Moreover, murder was additionally wrong in this instance since it violated state sovereignty and if executed, would result in the complete elimination of Poland's dominion and jurisdiction.

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[23] Włodkowic, _Scriptum_, Bełch, _Vladimiri_, Vol. II, p. 1016.

[24] _Ibid_., Vol. I, p. 117.

[25] _Ibid_., Vol.II, p. 925.

With regard to the question of dominion and independence, Archbishop Trąba claimed that sovereignty was a quality inherent in the nature of a state. A point which he illustrated through an analogy: the essential elements, philosophically speaking, of being (ens ut ens) were its essence and existence, and its qualities or accidents. Just as created being, that is natural being, has certain qualities which identify it, and may not be separated from it withou imparing its nature, so sovereignty, as a quality, may not be separated from the state in which it resides without disrupting the real nature of statehood. Sovereignty then, as Archbishop Trąba claimed, is an essential attribute of a state. This he attempted to prove with metaphysical and juridical arguments.[26] First of all, Trąba said, private possession, the right of all individuals, is for the sake of the owner. One can say that something belongs to someone if it is for his sake, and not for the sake of another. In the matter of possession, however, although all have the right to possess, one may not have the occasion or the ability to own because of a perverted order in the proper nature of things. Thus, a person owned by another, that is a slave, really owns nothing for himself. Such circumstances violate not only the nature of man, to be free, but also deny him a natural right.[27]

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[26] Finke, Acta, Vol. IV, p. 863.

According to public law, Archbishop Traba said, it is the state which has the legal title to acquire, maintain dominion for its own sake. However, a state subject to another state, loses dominion, sovereignty and jurisdiction. This is a violation of the state's right to have what by nature it has a right to possess. Thus, just as to remove the right and occasion of an individual to own is wrong, for that is slavery and slavery is wrong, so too, to take away the right of a state to dominion and sovereignty is likewise wrong for it reduces that state to slavery and subjection.[28] What is more, a state which finds itself in subjection to another state has lost its purpose, because its end, which is to rule its subjects and exert dominion and jurisdiction, has been usurped by the superior state. Without an end, a state, like any being serves no purpose and philosophically speaking could be called dead.

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[27] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 1076.

[28] *Ibid.*, p. 1077.

But the question arises, what right does a state have to exist? Granted, dominion is essential to the existence of the state, but is the existence essential? Peter Bolesta answered "yes," to this question. Fundamentally a philosopher and theologian, whose models were Aristotle and Aquinas, Bolesta said simply that states, as such, have the right to exist because Aristotle, Aquinas, Augustine and the Fathers of the Church taught that God willed that nations exist whether Christian or pagan, and that God willed a multiplicity of sovereign states.[29]

The principle of the multiplicity of states, however, conflicted with the contemporary struggle on the part of the Empire to rule universally. Ordinarily, the rule of action for the Empire was that infidel nations had no rights. In consequence Christians were authorized to conquer infidel territories and annihilate their populations. As mentioned earlier, the Poles challenged the notion that the Empire had such universal claims to authority. If such authority were admitted, the emperor might then dispose, as he pleased, of all possessions, territories, or dominions. Albert of Cracow criticized this abuse of imperial right calling it an excuse for imperialism. To dispose of a particular infidel state and its population on the basis of the statement that, "such is the ancient and due right of the Empire," without giving any proof that imperial right really extended over that state, would be illegal. In consequence, Albert asserted, the emperor had no authority whatsoever to dispose of schismatic and infidel kingdoms or nations.[30]

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[29] *Ibid.*, p. 1098.

Since murder, as advocated by Falkenberg violated the sovereignty and jurisdiction of statehood, a possession to which every state had natural right, the Poles claimed by that very argument the thesis, as advocated in Satira was in this second instance, groundless, unwarrented and untenable.

To sum up their position against the treatise of Falkenberg, the Polish delegation listed certain counter principles against those proposed by the Teutonic Friars. Długosz gives six of them. First, it is unjust to injure and kill infidels. Second, Christian princes may not expel infidels and Jews from their dominions or violate their peaceful lives. Third, it is unjust to occupy lands of others, this the natural law forbids. Fourth, it is not just even for the emperor of the Romans to transfer dominion from infidels to himself. Fifth, jurisdiction cannot be taken from infidels. Sixth, heretics and schismatics justly and rightly possess goods, no one has the right, therefore, or the authority, to confiscate them under the pretext of the faith.[31]

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[30] Ibid., p. 985.

B. The Comdemnation of Satira.

After the Polish case had been presented to the Council, there were several courses of action that could be taken. One could demand Falkenberg's punishment on the charge of offence against a Christian king, or adopt a second course which Paweł Włodkowic chose. Realizing the fraudulent principles and faulty logic in Falkenberg's works, he advised Archbishop Trąba to denounce the errors to the Council as heretical.[32] Włodkowic urged that action against the errors was more important for a Council of the Church whose purpose was to cleanse the Church of error, than the prosecution of one man. Therefore, at a general session of the Council on April 22, 1418, Archbishop Trąba, Jacob of Płock, Peter Bolesta, John Tuliszków, and Zawisza Czarny requested that the Council declare the pamphlet heretical.[33] Delivering the request, Archbishop Trąba said:

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[31] Długosz, *Historiae Polonicae*, Vol. III, Bk. II, p. 14-15.

[32] Ludwik Ehrlich, *Paweł Włodkowic i Stanisław ze Skarbimierza* (Warszawa, 1954), p. 181.

> We the delegates of the King of Poland, and the Grand Duke of Lithuania protest to the Council of Constance against the evils of John Falkenberg, lest by leaving these errors untouched, the Church may remain uncleansed of an error perpetuated in its name. Otherwise, the rights and freedoms of the infidels will be destroyed, and in the name of Christianity and the Church, and the Holy Faith. We seek that this evil member be struck from the body of the Church, lest it corrupt the entire body, and scandalize the other members. Let this worthless heresy be extirpated and receive its due sentence from all Christendom, and from all Christian nations. This we humbly request of the Council with all humility. 34

Besides this request, Peter Wolfram demanded that the errors of the Teutonic Order be revealed and halted by the Council, thus bringing, "peace and freedom to the people of the north."[35]

The Poles felt that the errors of Falkenberg should be also condemned personally by the pope. Since Poland had experienced for long periods of time the impact of Teutonic attacks, the Poles thought that they deserved consideration and assistance from the Head of the Church. The case was thus referred to the pope himself. Again speaking as the head of the Polish delegation, Archbishop Trąba addressed the pope saying:

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[33] Lenfent, Concile de Constance, Bk. VI, p. 609.

[34] Hardt, Concilium Constantiense, Vol. IV, p. 1549.

[35] Mansi, Sacrorum Conciliorum, Vol. XXVIII, p. 935.

> We the humble representatives of the serene prince and lord, King of Poland, and of his powerful brother, Alexander, called also Vitold the Great Duke of Lithuania, with humility insistance, and reverence, beseech and beg that since your Holiness has heard the libellum of Falkenberg, that it be condemned as heretical, with all due solemnity and not only by the nations and holy college, but publically and solemnly by you as pope. [36]

Rather than condemn the doctrine of Falkenberg on the grounds and arguments presented by the Poles alone, the pope and the Council Fathers decided to appoint a commission to examine the pamphlet. The commission was composed of several cardinals of whom we know that Jacob Plocen of Germany, Peter Oloren of

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[36] *Ibid.*, p. 947,

England, Thomas Emonena of Italy, Ulrich Verden, Peter of Allaico, Pierre D'Ailly and Francis Zabarella were members.[37]

Having studied _Satira_, the members of the committee called judges of the Council, found it heretical and prepared a formula condemning its propositions. This formula was delivered to the nations for examination and acceptance, before it could be presented for condemnation at a general assembly. This was done on April 30, 1418, with the request that because the judges had already made the necessary investigation the nations might accept their decision that Falkenberg's treatise was erroneous, and should be condemned.[38] The majority of the Fathers of the Council favored the condemnation of the treatise and the pope, Martin V, apparently hoping to protect the Poles from the errors advocated by Falkenberg, imposed the penalty of excommunication on all Christians who might act to propagate, defend or assert its errors. In addition, Falkenberg himself was admonished by his order, the Dominicans, on May 1, 1418, for his _Satira_, which it declared to be," a scandalous pamphlet." [39]

Although the treatise had been found heretical in the investigation conducted by the committee, it had only been declared erroneous and bordering on heresy by the papacy, _haereticales_ as Długosz says.[40] The Poles, therefore, hoped that Martin V would openly and finally declare it heretical and further that the general assembly of the Council of Constance would do the same. An attorney for the Polish delegation, Caspar de Perusio, in this regard, stated in a general session, that unless the pamphlet were condemned at a general session, for its, "infinite evils and errors," the Polish delegation would launch a protest and appeal for another General Council. At this point John, Patriarch of Constantinople, and John, Patriarch of Antioch rose to assert that Falkenberg's libellum had not been uninimously condemned by the Nations, and that it could not proceed to the general assembly for condemnation. To this, Simon Therano and Augustine of Pisa, both advocated of the Sacred Consistory, replied that these objections were not true, and that these men, in fact, were speaking without permission or as official representatives of their respective Nations.[41] As far as can be determined, the Nations, as the advocates claimed did condemn the libellum upon the advise of the committee which investigated it. Hardt points out that experts from all the Nations, besides the special commission, had examined the treatise and found it erroneous and deserving of condemnation by the Council. Thus the accusations which claimed that the Nations had not found it heretical seem to be unfounded.[42]

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[37] Lenfent, _Le Concile de Constance_, Bk. VI, p. 660.

[38] Finke, _Acta_, Vol. IV, p. 256.

[39] Bełch, _Vladimiri_, Vol. I, p. 175.

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[40] Długosz, Historiae Polonicae, Vol. II, Bk. XII, p. 214.

[41] Finke, Acta, Vol. IV, p. 784.

After these charges had been made in the general assembly of the Council, Paweł Włodkowic rose and requested permission to speak so that he might explain the request made by Caspar de Perusio. He had scarcely started to read his text, asking for a full conciliar condemnation of Satira, when he was interrupted at the pope's command by Augustine of Pisa who asked Włodkowic to remain silent.[43] Since Włodiowic had been forbidden to speak, he delivered the document he hoped to read to the notaries and scribes of the Council to be inserted in the official acts of the Council.[44] The pope then remarked that he had confirmed every decree in matters of faith pronounced conciliariter, that is, by the Council, but not if it had been approved otherwise.[45] This action and statement caused confusion and anger among the Poles. The pamphlet had been declared "erroneous and heretical," by the commission of cardinals and the Nations, the pope himself had called it, "haereticales," but the Council, as such, nor the pope had declared it heretical or had even made a pronouncement on it. The status of Satira was therefore dougtful.

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[42] Hardt, Constantiense Concilium, Vol. IV, p. 1557.

[43] Ibid., p. 1556.

[44] Ibid., p. 1558.

[45] Ibid., p. 1557.

Herman von der Hardt explains this sudden change of mind by Martin V, by saying that a lobby of Teutonic Knights had reached the pope, and had convinced him not to act against the pamphlet. In addition, Hardt claims that Martin V feared that the accomplishments already made by the Council might be jeopardized, and even that a new schism might erupt if he should act too strongly against Falkenberg and his libellum.[46] Falkenberg, it should be remembered, was something of a spokesman for the Order and the Empire at the Council, and to condemn him and his theories would have been to act against the Knights and the Empire.

When it was seen by the Council that the papacy hesitated to act firmly on the matter, the Duke of Burgundy and certain German delegates who manifested a tendency to legitimize the killing of infidels, urged that no decision be made at all by the Council concerning Satira.[47]

Still hoping to get satisfaction from the papacy, and encouraged especially by Maurice of Prague on May 4, 1418, the lay members of the Polish delegation entered, full force, into the residence of the pope at Constance. The pope hoped to escape them, however, the Poles demanded an audience. Martin V finally appeared and said he had never experienced such an outrage. Nevertheless, the Poles proceeded to restate their appeal concerning Falkenberg. The pope, indignant, addressed them severely, and said that their appeal did not come from sons faithful to the papacy. With these words, the Poles departed.[48]

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[46] Ibid., p, 1561.

[47] Ibid., p. 1564

On May 9, 1418, a public consistory was held to which the Polish delegation was invited. Sigismund attended this meeting and an advocate of the pope revealed certain greviences and complaints against the Poles for their recent bad behavior toward Martin V. Then an interdict was decreed against them, ordering them to leave Constance immediately at the conclusion of the Council. On May 14, the condemnation of Falkenberg's pamphlet as, "erroneous, scandalous and crude," was rescinded, and the judges decided to reserve judgement on its heretical nature. In this instance the judges were acting upon the example of Martin V. Since the 45th and last session of the Council had taken place on April 22, 1418, there was little further that could be done in behalf of the Polish cause. There was nothing left for the Poles to do but depart.[49] On May 17, 1418, therefore, they departed Constance, as Długosz says, with their, "800 knights," to return home.[50]

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[48] _Ibid_., p. 1566.

Eventually, after the heat of the Council had subsided, and through extensive efforts of the Poles, the Dominican's errors were solemnly condemned by Pope Martin V, at a public consistory held on January 10, 1424, and the errors were also revoked by Falkenberg himself.[51]

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[49] Ibid., p. 1565.

[50] Długosz, Historiae Polonicae, Vol. II, Part XII, p. 212.

[51] Bełch, Vladimiri, Vol. I, p. 166.

CONCLUSION

At the Council of Constance for the first time in the history of western Christendom, the question of the proper relation between Christian and non-Christian states was examined. The examination included a consideration of the attitude of Christendom toward individual non-believers and a re-examination of the inviolability of the human conscience. This discussion was due to the action of the Polish delegation which was motivated by policies of the Empire and the Order of Teutonic Knights. Opposed to the program of the Empire which tended to hide desires of territorial expansion under the cloak of religion, and in the process to force Christianity upon unwilling individuals, the Polish delegates affirmed the right of all nations, Christian or non-Christian, to territorial independence. They declared as well, that Christian evangelization and missionary procedures should be in keeping with the doctrine of Christ, and performed in a spirit of love and justice which recognized the dignity of men. In the presentation of their greviences and admonitions, the Poles claimed that the policies of the Empire and the Teutonic Order had shown no concern for the spirit of Christianity, had completely disregarded the tenets of natural law concerning the essential relation between a state and its exercise of dominion, and further, had shown a destructive attitude toward the infidel, as an individual and as a nation.

In defending the defenseless peoples of northern and eastern Europe, Poland had to sustain a fierce and insulting verbal attack, which not only accused her of heresy and idolatry, but suggested that all Poles, along with their king and princes be annihilated. Refuting the accusation of infidelity to the Church, however, was Poland's concern for the advancement of Christianity, and her success in the peaceful conversion of the pagan Samogitians and Lithuanians. The arguments expressed by the Poles at Constance, served not only as an admonition against the Empire and the Order of Crossbearers, but also as a reminder to the Council Fathers they they had allowed their concept of Christianity to narrow to such an extent that they now considered it coextensive with western-Europe. As a result of this thinking, everything outside the immediate community of western-Europe was dangerous and foreign, to be feared or fought. Such an attitude was not only erroneous, but led to the assumption that the heathen must be brought to Christianity by force, and that resistence should be met with extermination. No thought was given to fairness, kindness or honesty. This behavior and action was considered odious and iniquitous by the Poles.

All should cooperate, they believed, to oppose such unlawful policies. Should anyone persist in this behavior, or fail to resist it, he would be guilty of serious injustice. Indeed, the Poles were demanding in the name of justice that human relations be conducted in accordance with human, natural and divine law.

Having prepared their defense of infidels and infidel nations in accord with contemporary thought and law, the Poles earnestly worked for the good and well being of these defenseless people. In addition, the Poles, by their efforts were striving for a reformation in the missionary policy of the Church, hoping to bring to the attention of the Council Fathers the immoral and illegal nature of Christianity's behavior toward infidels.

Under such circumstances the last pagan peoples of Europe were hundered or prevented from becoming Christian, by the un-Christian attitude of Christians. To these infidels, the faith of Christ meant national and personal suicide.

It is unfortunate that no definite action was taken by the Council of Constance in behalf of the policies and suggestions offered by the Poles. No pronouncement was made, for example, concerning the proper attitude of Christians toward infidels, nor of Christian states to non-Christian states, nor was any effort made to reassert the traditional and proper missionary procedure of the Church. In this respect, the hope of the Council to reform the Church, "in members," was not a complete success. From this point of view also, the purpose of the Polish delegation at Constance was not completely achieved. There can be little doubt, however, that the position and attitude taken by the Poles surpassed in justice, good will and human respect the attitude of the Empire, the Teutonic Order, and indeed, of all western- Europe.

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